

**REPORT BY THE STATE AUDITOR
OF CALIFORNIA**

**Department of Health Services' Licensing and
Certification Program Performance Audit**

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January 4, 1994

93020

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

The Bureau of State Audits presents its audit report prepared under contract with Deloitte & Touche concerning the Department of Health Services' Licensing and Certification Program (department). This report concludes that the department needs to strengthen the controls over the preparation of the fee schedules for acute care and long-term care facilities. Further, the Legislature needs to amend the law to allow the department to adjust the fee schedules to more accurately reflect the costs of administering the program. In addition, according to provisions in the law, general and acute care facilities are subsidizing services to other types of facilities. Finally, the department needs to improve various administrative procedures.

Respectfully submitted,

A handwritten signature in cursive script, reading "Kurt Sjoberg".

KURT R. SJOBERG
State Auditor

BUREAU OF STATE AUDITS

93020

***Final Report of the Department of Health Services'
Licensing and Certification Program Performance Audit***

***Prepared by Deloitte & Touche
January 1994***

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EXECUTIVE SUMMARY

RESULTS IN BRIEF

The Department of Health Services' Licensing and Certification Program (L&C) is responsible for enforcing state and federal laws and regulations governing the licensing and certification of health care facilities. Section 2 of Statutes 1992, c.712, provides that the Bureau of State Audits (Bureau) shall examine the methodology used by L&C to calculate certain state licensing fees and to conclude if it is in compliance with Section 1266 of the Health and Safety Code. Section 1266 also requires the Bureau to determine if costs included in the fee schedule reflect the appropriate resources needed to meet state and federal requirements, and if such resources are efficiently utilized.

We identified a total of 12 issues during our audit of L&C. Each issue is described in detail in Section III of the report. For summary purposes, these issues are grouped into three categories as follows:

- L&C User Fees
- Management and Operations
- Automated Systems

A brief description for each of the above issue groupings is provided here in the Executive Summary.

L&C User Fees

L&C essentially has two major revenue sources: Federal funds and general funds which are offset by user fees for certification and licensing of state health facilities. Federal revenue funded approximately 65% of L&C's operating costs for fiscal year 1993; remaining funding of approximately 35% was generated from user fees.

User fees consist primarily of two types: fixed fees and cost reimbursement fees. Section 1266 of the Health and Safety Code stipulates how most of L&C's key licensing fees are to be calculated. One of the objectives of the audit was to review L&C's compliance with Section 1266 regarding its fee calculation methodology for general acute care and long-term care health facilities. According to Section 1266, both of these fees are calculated on a cost reimbursement basis and the method prescribed is very specific.



Our audit discovered that significant weaknesses exist at L&C with the control procedures surrounding the preparation of the fee schedule required by Section 1266. These weaknesses are:

- Desk-top procedures and appropriate work papers (e.g., audit trails for key data) were incomplete at the time of the audit.
- Review, validation, and supervision of the fee schedule process was not adequate. This was evident by the incomplete set of work papers and the number of errors in the fee schedule.

Although there were errors in L&C's Original Fee Schedule for the fiscal year 1993 prepared pursuant to Section 1266, the net result to fees per bed was not material. Therefore, an Alternative Fee Schedule is *not* recommended as part of this audit. However, it is recommended that L&C strengthen its control environment (e.g., establish desk-top procedures, ensure proper review, provide training, etc.) related to preparing the fee schedule to reduce the likelihood in the future that other fee schedules are not produced with material errors.

We also discovered during the audit that Section 1266 and other applicable statutes defining fee methodology result in significant financial inequities to certain health facilities. Specifically for Section 1266, it requires L&C in its preparation of a fee schedule for each fiscal year to estimate expenditures using the "Governor's" recommended budget and federal funds budget. In recent years, these budgets have been significantly greater than the actual expenditures. (L&C, however, has no budgetary authority to use the \$9.7 million in revenue as it is accounted for as an offset to the General Fund.) For example, in fiscal year 1993, budget amounts were \$9.7 million greater than actual expenditures. This has an effect of overstating fees charged to general acute care and long-term care health facilities. If fees for fiscal year 1993 were calculated based on actual expenditures (as opposed to budget amounts), they would be revised as follows:

| Fee Per Bed | | |
|---|-----------------------|-----------------------|
| Facility Type | L&C Original Schedule | Revised* Fee Schedule |
| General Acute Care Facilities | \$48.25 | \$29.59 |
| Long Term Care Facilities | \$160.27 | \$97.56 |
| * If the fee methodology was corrected by amending Section 1266, these would be the revised fees. | | |

To remedy these inequities, we recommend that the Legislature amend Section 1266 to require L&C for each annual fee schedule to apply an adjustment to that schedule based on the differences between "estimated" figures and "actual" figures from the *previous* fiscal year. Additionally, the Legislature needs to decide if action in the current fiscal year is necessary to address the overstatement of fees by approximately \$9.7 million.

It is important that the workload of L&C be recognized in this decision as to the overall impact to fees. That is, as discussed in Issue No. 5 and No. 12, L&C is not currently meeting all of the mandatory requirements. This is due, in part, to a lack of financial resources. Ultimately, L&C's goal should be to meet all state and federal mandates and collect fees accordingly.

Finally, the overall fee methodology used by L&C pursuant to current law results in general acute care and long-term care health facilities subsidizing L&C's services to other health facilities. Specifically, a number of fixed fees stipulated by Section 1266 and other applicable statutes are less than the estimated costs of L&C to provide the necessary services. The three most significant discrepancies are with intermediate care facilities (DD-H/DD-N), clinics, and congregate living health facilities. Annual estimated costs for L&C to provide the required services for these three facility types is \$1,188,000. The estimated annual revenue generated from the fixed fees for the same facility types is \$229,000. Thus, these facilities are being subsidized by approximately \$959,000 per year.

We recommend that the Legislature re-evaluate the fixed fees afforded certain facilities under Section 1266 and other applicable statutes.



Management and Operations

L&C's budget function is not fully supportive of its operations. Two main problems exist: budget development in recent fiscal years has not produced budgets representative of L&C's operations and budget monitoring is not timely. Contributing to these problems is usage of CALSTARS (state accounting system) has not been optimal. CALSTARS was implemented at the Department of Health Services approximately two years ago. Training for Department level and L&C fiscal staff has not been adequate as few staff understand the reports and main system functionality. As alluded to earlier, the budget developed for fiscal 1993 was approximately \$9.7 million greater than the actual expenditures. Although budgets are intelligent estimates to provide financial direction and are not always precise, a \$9.7 million deviation is very significant in relation to L&C's total budget.

It is recommended that CALSTARS training be provided to Department and L&C staff and system options be explored to better and more timely assist L&C with monitoring its budgets during the fiscal year. At the very minimum, simple spreadsheets should be developed containing high level budget and accounting data as a means to monitor budgets. Finally, L&C management should increase its involvement with the Department in creating L&C's annual budgets.

L&C is not completing all of the Priority 1 federal mandates of the Health Care Financing Administration (HCFA). For the 1993 fiscal year, the audit team sampled a number of long-term care and home health care facilities to ascertain if Priority 1 surveys were conducted within the timeframe required. We discovered that L&C had a compliance *failure* rate of 3.5% and 42.9% for long-term care and home health care facilities, respectively. Although, as recently reported by HCFA, L&C had made significant improvement for the 1993 fiscal year, it still is currently unable to complete the required Priority 1 mandates within the required timeframe (i.e., on an average of every 12 months). There is the potential for financial liabilities assessed by HCFA for noncompliance and/or reduction of future funding.

It is recommended that L&C re-prioritize its work activities to better comply with HCFA since HCFA provides funding for approximately 65% of L&C operations. It should start discussions with HCFA on methods to improve compliance, including additional resources if necessary.

Related to Priority 1 compliance is L&C's difficulty with meeting statutory requirements for responding to complaints concerning the operations of facilities. For example, for the 1992 fiscal year there was a total of 6,836 complaint investigations for all facility types. Of those investigations, 50% or 3,409 were completed late as defined in statute. Complaints by their very nature are unscheduled and disrupting to normal field office operations. Consequently, when a complaint is received by a field office, surveyors or survey teams are pulled from an existing survey in order to investigate the complaint. This generally results in many inefficiencies as surveyors are starting and stopping work to accommodate complaints. They do not remain focused on one task.

We recommend that each field office create "Complaint Teams" to focus exclusively on complaints. The Complaint Teams should be rotated periodically to prevent burn-out. This solution will prevent the inefficiencies associated with starting and stopping tasks and will increase the number of complaints investigated within the statutory timeframes.

Health facilities are not always prepared when survey teams arrive on-site. Consequently, the survey team is unable to finish all of its tasks and is forced to return at a later date. This is not an effective method because it unnecessarily wastes L&C surveyor time. We recommend that L&C develop a self-diagnostic checklist as a tool for facilities to use in assessing if their operations are ready for inspection. Additionally, L&C should consider imposing direct or indirect financial penalties if a facility is not prepared when scheduled.

Certified Nurse Aide (CNA) certification processing time surged for the first few months of the current fiscal year to an average of 12 weeks which is the maximum time permitted by law. CNA application volume has increased by 47% from the prior fiscal year without a proportionate increase in personnel. This is the primary culprit which initially led to a 12 week processing time. Now it is only taking approximately 45 days to process an application. However, overtime is the primary technique employed by L&C for reducing this backlog of CNA certifications. This is not a cost effective approach for addressing the increased volumes over the long-term. We recommend that the Department evaluate the staffing levels in recognition of the 47% increase in CNA certifications with the objective of devising a

staffing plan that would reduce the average processing costs.

Other non-personnel improvements can also be made without significant investment. When a citation is issued to a facility for a violation(s), many of the field offices have a surveyor or other personnel deliver the citation in person. They then wait "on-site" until facility personnel write a plan of correction (POC). At the point that a citation is delivered, there is no longer a life-threatening situation existing as it was acted upon immediately when the condition was initially discovered. However, current policy at L&C requires this approach. Sometimes a surveyor or survey team may wait hours for the POC to be completed. Physically waiting on-site for the POC would appear to not serve a constructive purpose. It is estimated that 1,327 hours is expended annually for this policy. We recommend changing the policy to allow for the delivery of a citation by registered mail and require the facility to complete the POC within 10 days, which is the maximum time allowed per law.

Automated Systems

Antiquated computer systems are used to support the L&C survey reporting process. Not only do the individual information systems (OSCAR/ACLAIMS) lack functionality, they are also not integrated. This issue is further compounded by the inability to easily retrieve information from the system due to an inadequate report writer. The result of having non-integrated systems is a time-consuming, error-prone, and manually-driven survey reporting process. For example, the database of the OSCAR system, as mentioned in the State Agency Evaluation Process (SAEP) report (a HCFA report), was 49% inaccurate during the period of HCFA's review.

Finally, it is important to recognize that ACLAIMS and OSCAR are proprietary systems; therefore, L&C does not have the ability to modify these systems. This is an additional challenge that L&C must contend with in improving its systems.

We recommend that the Department evaluate short-term technology solutions recently proposed by its Data Systems Branch and consider implementing low-cost high-return solutions that will not be in conflict with longer-term solutions. Next, the Department should request the Data Systems Branch to develop a strategic information systems plan (i.e., assess technology currently being used, evaluate alternatives, feasibility study, etc.).



Also, training should be provided to staff for learning how to use the report writer for the new ACLAIMS database .

ACLAIMS is a system utilized to track all information pertaining to the licensing and certification of facilities. It is being used, in addition to other primary citation functions, as a citation accounts receivable system when it was not initially designed to perform accounting functions. It was designed to support field offices in the creation and tracking of citations. In short, the problems in this area include: accounts receivable data on ACLAIMS is not accurate and timely; critical reports to manage the accounts receivable area (e.g., aged receivables report categorizing citations as 30, 60, or 90 days late) are not generated due to an unreliable database; citations are accounted for on a cash basis which makes it difficult to analyze outstanding citation balances; running reports on ACLAIMS is technically inefficient (i.e., very slow on computer system) as data for reports must first be consolidated from the 18 Local Area Networks (i.e., collection of personal computers) onto one computer; and ACLAIMS cannot calculate interest on overdue citations. Citations issued for the seven-month period ended July 31, 1993 was approximately \$2 million. For the same period, L&C has only collected \$1.2 million of that amount. This represents approximately \$800,000 in uncollected citations (i.e., receivables). It is not easily determinable on ACLAIMS to analyze the nature or cause of the \$800,000. For example, some citations may be significantly over due and require additional collection efforts.

We recommend that the Department conduct a feasibility study to determine the best course of action to enhance systems support for the accounts receivable function. Possible alternatives include modifying the existing ACLAIMS system or purchasing a stand-alone personal computer based accounts receivable package and developing the necessary interfaces to ACLAIMS. In addition, we recommend to the Department: ensure with the new system solution that adequate accounts receivable reports are generated; provide training to L&C staff for the new system solution; ensure that the new system can manage citations on an accrual basis (as opposed to a cash basis); and regardless of the system solution, centralize management of the accounts receivable function at the L&C program level (instead of relying on field offices to manage).

L&C has a technical environment requiring numerous types of procedural, policy, and legal documentation which they reference routinely in order to perform their services. For example, there are at least 38 manuals in one district administrator's office alone. It is impractical to manage this type of volume manually, especially recognizing that they constantly change. Access to all forms of documentation is time consuming and error prone. We recommend that L&C explore methods for automating the management and access of its documentation.

**DEPARTMENT OF
HEALTH SERVICES'
RESPONSE**

The Department of Health Services (the "Department") has reviewed the content of the report and has responded by letter. A copy of this response is included in Section IV of the report. While the Department said it did not agree on several of the issues discussed or the audit conclusions, it said that it found many of the recommendations to be beneficial. Further, the Department believes that not enough acknowledgment was given to L&C's accomplishments as a program.

The Audit Team has prepared a separate response to the Department's review comments. This response is included in Section V of the report.

I. INTRODUCTION

The Department of Health Services' Licensing and Certification Program (L&C) is responsible for operating a responsive and uniform enforcement program in accordance with state and federal laws and regulations governing the licensing and certification of health care facilities. The program's principal objective is to ensure and promote the highest quality of medical care in California. In addition, L&C is working towards improving access to care and assuring quality of care within those health facilities.

The Licensing and Certification program is very complex, and it encompasses two major functions. The first, licensing, is a state-required mandate. The California Health and Safety Code requires the Department of Health Services (Licensing and Certification Program) to inspect and license health facilities which are organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer.

The second major function, certification, is a federally required mandate. The federal government requires the L&C to survey and ultimately certify health facilities (including long term care facilities and home health agencies, etc.) for Medicare and Medicaid (Medi-Cal) funding and make available to the public findings of such surveys. In addition, the program is to maintain and update a Nurse Aide registry and implement Nurse Aide training and competency evaluation programs.

L&C conducts the licensing and certification surveys through a network of eleven district offices throughout the State of California and through a contract with the County of Los Angeles for the licensing and certification surveys of facilities within that county, excluding county-operated facilities.

The licensing process is funded by general funds reimbursed by licensing fees imposed upon health facilities (e.g., skilled nursing facilities, home health agencies, general acute care hospitals, clinics, etc.) which

are collected and deposited into the State's General Fund. Included in the fees are L&C workload factors. The fees are dictated by statute; some are calculated annually, others are flat fees.

The certification process for Medicare (Title 18 of the Social Security Act) is fully funded by the Health Care Financing Administration (HCFA) of the federal government through a grant process. The certification of Medi-Cal (Medicaid - Title 19 of the Social Security Act) is funded by both the federal and state governments through a matching process. Examples include: for FY 1993, the federal matching share of costs for the Medicaid nursing home survey and certification program was 80 percent. Costs for Intermediate Care Facility/Mentally Retarded (ICF/MR) survey activities are reimbursed at 75 percent for salaries, fringe benefits, travel and training and 50 percent for all other costs.

The total 1992-93 budget for the Licensing and Certification program was approximately \$60 million, of which approximately \$42 million were federal funds.

PROCESS FOR CONDUCTING LICENSING AND CERTIFICATION SURVEYS

L&C surveyors inspect health facilities for both licensing and certification of Medicare and Medi-Cal (Title 18 and 19 of the Social Security Act). Federal law requires that these surveyors be fully trained prior to surveying the health facilities and that each long term care facility and home health agency be surveyed on an average of once every 12 months.

The survey teams are required to ensure that each facility is in compliance with the law and regulations pertaining to health care standards. The surveyors are to notify the facilities of any deficiencies of compliance, issue licenses or certificates, or request a plan of correction (if deficiencies noted), and revisit the facility to inspect corrections and issue an inspection report.

Although licensing and certification surveys are the majority of the workload of L&C, there are other major responsibilities mandated of them, either included within the survey process (e.g. complaint surveys, citations and appeals) or additionally required such as certifying nurse aides, home health aides, and hemodialysis technicians, maintaining the nurse aide registry; as well as the development of new policies and regulations.

II. SCOPE AND METHODOLOGY

Section 1266 of the Health and Safety Code requires the Bureau of State Audits (Bureau) to examine the methodology used by L&C to calculate certain state licensing fees and to conclude if it is in compliance with Section 1266. Section 1266 also requires the Bureau to assess if costs included in the fee schedule reflect the appropriate resources needed to meet state and federal requirements, and if such resources are efficiently utilized.

The objectives of the audit were to determine the following:

- Whether the fee methodology and analysis is in compliance with the specifics of Section 1266.
- Whether costs developed accurately reflect the resources needed to meet the requirements of state and federal law governing the licensing and certification of certain health facilities.
- Whether the staffing and systems analysis report used by L&C to prepare the information required by Section 1266, subdivision (b), adequately determines the efficient and effective use of fees collected to perform the necessary functions of the program.

The detailed audit approach is provided in the following paragraphs.

TASK 1 - REVIEWED APPLICABLE STATE LAWS, HCFA REGULATIONS, AND BACKGROUND MATERIAL

This task was an integral part of the audit. It provided the necessary background and understanding of L&C's operations and program mandates to effectively execute Task 2 and Task 3. It essentially was a research and planning step in the audit which permitted the project team to validate the approach for the remainder of the audit (Tasks 2 and 3) and to develop a foundation of knowledge from which the project team could make judgments and guide the audit to a successful completion.

**TASK 2 - EVALUATED
COMPLIANCE OF L&C'S
LICENSING FEE
METHODOLOGY WITH
SECTION 1266**

In this task, we ascertained if L&C's licensing fee methodology was in compliance with Section 1266. This task was relatively structured and was driven by the specific requirements outlined in Section 1266 governing the calculation of fees. We verified the accuracy of the financial and non-financial information included in L&C's supporting fee schedules, including revenue adjustments. We also reviewed the reasonableness of the distribution base and its accuracy, and determined if the total projected licensing fees would cover the general fund expenditures, less required adjustments.

**TASK 3 - ASSESSED
EFFICIENCY AND
EFFECTIVENESS OF
OPERATIONS**

The objective of Task 2 was to focus on the methodology compliance and accuracy of financial and non-financial information. It did not address efficiency or effectiveness of operations. That was the focus of Task 3. The first step in this task was to assess the adequacy of L&C's Staffing and Systems Analysis report. Specifically, we determined if the report contained accurate performance measurement information as required by Section 1266, and if recommendations made to streamline administrative processes and were appropriate for L&C's operations.

Next, we performed an independent assessment of L&C's operations and organizational structure. We spent much of our time exploring re-engineering opportunities not addressed in the Staffing and Systems Analysis report. Our techniques included:

- Interviewing key L&C personnel.
- Reviewing applicable background information and procedural related documentation.
- Preparation of a detailed program matrix identifying all significant state and federal mandatory requirements to be performed by L&C. We verified if L&C was currently performing these mandatory functions (See Appendix A).
- Creation of work flow diagrams (See Appendix B) and suggested re-engineering initiatives for the following functions:
 - .. Initial Licensing
 - .. Complaints Investigation
 - .. Certification/Recertification Survey
 - .. CNA Certification Process

- .. Citation Process
- .. Development of New Policies/Regulations
- .. Field Office Inquiries/Policy Interpretation
- Conducting multiple re-engineering work sessions with L&C personnel. Participants included personnel from headquarters and field operations.
- Assessing the effectiveness of L&C organizational structure through examining its key components and completion of a standard questionnaire.
- Conducting 11 telephone surveys of health care facilities to evaluate the perceived relationship of L&C and the health facilities it regulates.

III. AUDIT FINDINGS

INTRODUCTION

In this section of the report, we present the detailed findings of the audit. Each finding is presented in the format of an issue paper and includes the following information:

- *Condition* - a description of the problem or potential problem
- *Cause* - the actual source of the problem
- *Effect* - the impact the problem has on the organization
- *Conclusion* - final assessment as to the nature of the problem
- *Recommendation* - a practical solution for solving the problem.

The issue papers begin on the next page.

ISSUE #1 FEE SCHEDULE COMPLIANCE

Condition

L&C is required by Section 1266 of the Health and Safety Code to prepare an annual fee schedule to be used as a basis for charging general acute care and long-term care health facilities for a state license. These fees are charged based on the estimated costs of providing the licensing services and are billed based on the total beds maintained at the health facility. Exhibit I contains L&C's Original Fee Schedule prepared for the fiscal period ended June 30, 1993.

In addition to fees charged to general acute care and long-term care health facilities, L&C also charges other facilities (e.g., community clinics, free clinics, psychology clinics, etc.) a fixed fee for its services. Both types of fees are specifically prescribed by law. Fixed fees are listed on the fee schedule in line item 2 (refer to Exhibit I) as adjustments to L&C's overall costs. These adjustments are included in the fee schedule to arrive at net costs to be recovered from fees charged to general acute care and long-term care health facilities.

Overall, there are significant weaknesses with the control procedures surrounding the preparation of the fee schedule required by Section 1266. Desk-top procedures and appropriate L&C work papers (e.g., audit trails for key data) were incomplete at the time of the audit. It was not possible to readily obtain supporting documentation for all quantitative data included in the fee schedule under review. Review, validation, and supervision of the fee schedule process was not adequate. This was evident by L&C's incomplete set of work papers (as discussed above), the number of errors in the fee schedule, and the inappropriate logic.

Specific control weakness conditions relating to the fee schedule are listed below:

- The \$18,365,000 in general funds budgeted for the 1992-93 period (refer to Exhibit I) did not initially have supporting schedules or explanations as to the source of the information in L&C's work papers. Although L&C was eventually able to reconcile the amount to the Governor's proposed budget and the Budget Change Book, absence of such support from the initial set of L&C's work papers is a significant



control weakness. All significant amounts on the fee schedule should have supporting documentation included in the workpapers when the fee schedule is initially prepared.

In addition to the problem of not having adequate supporting work papers, L&C did not use timely budget information to estimate the governor's budget for fiscal 1993. According to Section 1266, general fund expenditures should be estimated using the budget contained in the Governor's proposed budget in the year in which the schedule is prepared. L&C, however, obtained a budget amount in approximately October 1992 from an **early** version of the Governor's proposed budget. (L&C began its original fee schedule around that time period). The **final** version of the Governor's proposed budget, however, was scheduled to be published January 10, 1993.

Section 1266 requires the fee schedule to be completed by January 17, 1993 and L&C believed it did not have ample time to obtain the budget amount from the final version of the Governor's proposed budget and update the fee schedule to meet the January 17, 1993, deadline. Granted, a seven day period may not have provided sufficient time to adjust the fee schedule using the budget amount from the final version published on January 17, 1993, but a version more recent than October of 1992 could have been obtained. The final version of the Governor's proposed budget was \$18,268,092.

- The \$42,267,499 in federal funds budgeted for the 1992-93 period (refer to Exhibit I) was obtained by L&C staff from an internal document titled, Green Sheet, which was produced by the Budget Section at the Department of Health Services. The Green Sheet is essentially a summary budget document. The detailed budget schedules initially contained in L&C's workpapers did not reconcile to the Green Sheet. Although L&C was eventually able to reconcile the detailed budget schedules to the Green Sheet, absence of such detailed support from L&C's initial set of workpapers is a significant control weakness.

Similar to the problem with the general fund budget amount, L&C did not use timely budget information to estimate the federal fund budget for fiscal 1993. L&C obtained the federal fund budget amount in approximately October 1992 from an **early** version of

the Governor's proposed budget. Section 1266 does not specifically state that the federal fund expenditures should be estimated using the budget contained in the final version of the Governor's proposed budget. However, the audit team believes that in order to maintain comparability of financial information the federal fund budget amount should also (i.e., along with the general fund amount) be obtained from the final version of the Governor's proposed budget published on January 10, 1993. That amount was \$41,637,571.

- L&C's work papers contained a summary schedule of estimated federal receipts for the 1992-93 period. An adjustment on the schedule of \$507,783 for Title 19 non-long term care revenue was not supported in L&C's initial set of work papers. It was concluded, however, by the audit team that it was a reasonable adjustment.
- An important component of the fee schedule is the number of beds per facility (refer to Exhibit I). This factor is used to allocate the costs to the different types of facilities in order to calculate the fees. L&C obtained bed counts for the facilities at different points in time. This inconsistency can create inequities in overall allocation of costs to facility types. This can be corrected by obtaining bed count data at the same point in time for all facilities, which was the approach used by the audit team.
- A letter from HCFA detailing L&C's funding for fiscal 1993 had an addition error of \$583,257. This letter was one of the source documents for estimating federal receipts in the fee schedule. Although the adding error was directly the fault of HCFA, generally such significant amounts should be recalculated when they are used in important analyses, such as a fee schedule.

Figure 1-a summarizes the financial categories or statistical data that were calculated incorrectly in L&C's Original Fee Schedule (which is detailed in Exhibit I) and the correct amounts as calculated by the audit team in the Alternative Fee Schedule (which is detailed in Exhibit II).

**Figure 1-a
Incorrectly Calculated Data**

| Financial Category | Original Fee Schedule | Alternative Fee Schedule |
|--|-----------------------|--------------------------|
| Budgeted general fund expenditures | \$18,365,000 | \$18,268,092 |
| Federal funds budgeted | \$42,267,499 | \$41,637,571 |
| Federal funds estimated receipts | \$33,174,986 | \$33,612,428 |
| Net revenue required | \$25,018,126 | \$23,853,848 |
| Number of beds: | | |
| • General Acute Care | 118,336 | 117,881 |
| • Long-Term Care | 120,472 | 120,912 |
| Total costs allocated to facility types: | | |
| • General Acute Care | \$5,710,015 | \$5,443,448 |
| • Long-Term Care | \$19,308,111 | \$18,410,400 |

Cause

Responsibilities concerning the preparation and presentation of the fee schedule are not clearly defined and maintained. Consequently, there is a general lack of ownership of the process. Also contributing to the cause of this problem, is recent turnover of key personnel without adequate training and cross-training for new and existing staff.

Effect

Fees per bed for general acute care and long-term care facilities are overstated for the 6-30-93 fee schedule. This is summarized as follows in Figure 1-b:

**Figure 1-b
Compliance Fee Summary**

| Fee Per Bed | | |
|-------------------------------|-----------------------|--------------------------|
| Facility Type | L&C Original Schedule | Alternative Fee Schedule |
| General Acute Care Facilities | \$48.25 | \$46.18 |
| Long Term Care Facilities | \$160.27 | \$152.26 |

Exhibit I contains L&C's Original Fee Schedule prepared for the fiscal period ended June 30, 1993, and provides the detailed calculations for the \$48.25 and \$160.27 fees listed in the above table. Section 1266 requires the prepa-

ration of an Alternative Fee Schedule if errors are discovered during the audit. This schedule is presented in Exhibit II and provides the detailed calculations for the \$46.18 and \$152.26 fees included in the above table.

Conclusion

Although the fees per bed calculated per L&C's Original Fee Schedule (Exhibit I) and the Alternative Fee Schedule (Exhibit II) are not materially different, the apparent lack of controls may lead to more significant errors in the future if corrective action is not taken. Furthermore, the fee schedule effective June 30, 1993 is technically inaccurate and, therefore, is not fully compliant with Section 1266.

Recommendation

The Department should pursue the following recommendations to strengthen its control environment surrounding the preparation of the fee schedule:

- Establish and maintain desk-top procedures for the fee schedule preparation process. It is critical that these procedures address proper techniques for developing work papers to support each years fee schedule (e.g., supporting schedules, document review, clearly documented assumptions, etc.).
- Ensure that proper review, validation, and supervision of the fee schedule preparation process is accomplished. This is very important in order to strengthen the control environment and to better ensure that a fee schedule is prepared in compliance with Section 1266.
- Achieve a better understanding of the federal funding process and the related requirements. That is, improve estimates for realistic federal funding for Title 18 (Medicare) and Title 19 (Medi-Cal) based on history and any recent regulatory changes.
- Provide training and cross-training to the appropriate L&C staff for proper completion of the fee schedule and supporting work papers.

According to Section 1266, if the difference between the fees calculated in L&C's Original Fee Schedule (Exhibit I) and the Alternative Fee Schedule (Exhibit II) are not significant, it is not necessary to adjust the fees. Since L&C's fees per bed for general acute care and long-term facilities are within approximately 4.3% and 5.0%, respectively, of the Alternative Fee Schedule, the difference is not considered significant. Therefore, pursuant to Section 1266 L&C should not change its fees as calculated in Exhibit I.

EXHIBIT I
L&C ORIGINAL FEE SCHEDULE
30-Jun-93

Page III-7

| | | | |
|--|------------|------------|---------------------|
| 1. 1992-93 budgeted General Fund expenditures per governor's proposed budget | | | \$18,365,000 |
| 2. Less Projected Revenue for 1992-93 generated by: | | | |
| Referral agencies (HSC Sec. 115(a) & 1403.1) | | \$9,366 | |
| Adult day health centers (HSC Sec 115(a) & 1575.9) | | 2,528 | |
| Home health agencies (HSC Sec. 115(a)(b) & 1729) | | 403,984 | |
| Clinics (HSC Sec. 1214): | | | |
| Community clinic | 119,730 | | |
| Free clinic | 33,849 | | |
| Psychology clinic | 5,287 | | |
| Rehabilitation clinic | 22,565 | | |
| Surgical clinic | 79,265 | | |
| Chronic dialysis clinic | 171,453 | | |
| Total clinics | | 432,149 | |
| Congregate living health facility (HSC Sec. 1266(f)) | | 3,000 | |
| ICF/DD-Habilitative (CCR, Title 22, Section 76846) | | 176,455 | |
| ICF/DD-Nursing (HSC 1275.3(c)) | | 43,868 | |
| Nurse assistant application fee | 402,102 | | |
| Nurse assistant renewal fee (CH. 177/1987, HSC Sec. 1337.7) | 638,497 | | |
| Nurse assistant certification fees | | 1,040,599 | |
| License information and material fee | | 21 | |
| | | | (\$2,111,970) |
| 3. Federal funds: | | | |
| 1992-93 budgeted | | 42,267,499 | |
| 1992-93 estimated receipts | | 33,174,986 | |
| | | | 9,092,513 |
| 4. Prior year revenue adjustment for 1991-92: | | | |
| Projected 1991-92 revenue | | 25,588,669 | |
| General acute care hospital fees | 3,343,267 | | |
| Acute psychiatric hospital fees | 542,407 | | |
| Special hospital fees | 62,708 | | |
| Skilled nursing facility fees | 21,383,979 | | |
| ICF fees | 390,953 | | |
| ICF-DD fees | 192,772 | | |
| Actual 1991-92 revenue | | 25,916,086 | |
| | | | (\$327,417) |
| 5. Net revenue required for 1992-93 | | | <u>\$25,018,126</u> |



EXHIBIT I
L&C ORIGINAL FEE SCHEDULE
 30-Jun-93

6. Fee per bed computation

| | <u>Time (Hours)</u> | <u>Percentage</u> | <u>Amount</u> |
|--|---------------------|-------------------|---------------------|
| General acute care facilities: | | | |
| General acute care hospital | 23,261 | | |
| Acute psychiatric hospital | 900 | | |
| Special hospital | 0 | | |
| Chemical dependency recovery hospital | 600 | | |
| | <u>24,761</u> | <u>22.82%</u> | <u>\$5,710,015</u> |
| Long-term care facilities: | | | |
| Skilled nursing facility | 69,987 | | |
| Intermediate care facility | 3,113 | | |
| Intermediate care facility-develop. disabled | 10,628 | | |
| | <u>83,728</u> | <u>77.18%</u> | <u>\$19,308,111</u> |
| Total | <u>108,489</u> | <u>100.00%</u> | <u>\$25,018,126</u> |

Fees

| | <u>Number of Facilities</u> | <u>Number of Beds</u> | <u>Amount</u> | <u>Fee per Bed</u> |
|--|---------------------------------|---------------------------|---------------------|--------------------|
| General acute care facilities: | | | | |
| General acute care hospital | 504 | 106,276 | | |
| Acute psychiatric hospital | 90 | 11,121 | | |
| Special hospital | 6 | 101 | | |
| Chemical dependency recovery hospital | 12 | 838 | | |
| Total | <u>612</u> | <u>118,336</u> | <u>\$5,710,015</u> | <u>\$48.25</u> |
| Long-term care facilities: | | | | |
| Skilled nursing facility | 1,211 | 117,094 | | |
| Intermediate care facility | 19 | 1,714 | | |
| Intermediate care facility - develop. disabled | 28 | 1,664 | | |
| Total | <u>1,258</u> | <u>120,472</u> | <u>\$19,308,111</u> | <u>\$160.27</u> |



EXHIBIT II
ALTERNATIVE FEE SCHEDULE
30-Jun-93

Page III-9

| | | | |
|--|------------|------------|----------------------------|
| 1. 1992-93 budgeted General Fund expenditures per Governor's proposed budget | | | \$18,268,092 |
| 2. Less Projected Revenue for 1992-93 generated by: | | | |
| Referral agencies (HSC Sec. 115(a) & 1403.1) | | \$9,366 | |
| Adult day health centers (HSC Sec 115(a) & 1575.9) | | 2,528 | |
| Home health agencies (HSC Sec. 115(a)(b) & 1729) | | 403,984 | |
| Clinics (HSC Sec. 1214): | | | |
| Community clinic | 119,730 | | |
| Free clinic | 33,849 | | |
| Psychology clinic | 5,287 | | |
| Rehabilitation clinic | 22,565 | | |
| Surgical clinic | 79,265 | | |
| Chronic dialysis clinic | 171,453 | | |
| Total clinics | | 432,149 | |
| Congregate living health facility (HSC Sec. 1266(f)) | | 3,000 | |
| ICF/DD-Habilitative (CCR, Title 22, Section 76846) | | 176,455 | |
| ICF/DD-Nursing (HSC 1275.3(c)) | | 43,868 | |
| Nurse assistant application fee | 402,102 | | |
| Nurse assistant renewal fee (CH. 177/1987, HSC Sec. 1337.7) | 638,497 | | |
| Nurse assistant certification fees | | 1,040,599 | |
| License information and material fee | | 21 | |
| | | | (\$2,111,970) |
| 3. Federal funds: | | | |
| 1992-93 budgeted | | 41,637,571 | |
| 1992-93 estimated receipts | | 33,612,428 | |
| | | | 8,025,143 |
| 4. Prior year revenue adjustment for 1991-92: | | | |
| Projected 1991-92 revenue | | 25,588,669 | |
| General acute care hospital fees | 3,343,267 | | |
| Acute psychiatric hospital fees | 542,407 | | |
| Special hospital fees | 62,708 | | |
| Skilled nursing facility fees | 21,383,979 | | |
| ICF fees | 390,953 | | |
| ICF-DD fees | 192,772 | | |
| Actual 1991-92 revenue | | 25,916,086 | |
| | | | (\$327,417) |
| 5. Net revenue required for 1992-93 | | | <u><u>\$23,853,848</u></u> |

Note: Shaded figures have been changed from L&C's Original Fee Schedule as represented in Exhibit I.



ALTERNATIVE FEE SCHEDULE

30-Jun-93

6. Fee per bed computation

Time Allocation

| | <u>Time (Hours)</u> | <u>Percentage</u> | <u>Amount</u> |
|--|---------------------|-------------------|---------------------|
| General acute care facilities: | | | |
| General acute care hospital | 23,261 | | |
| Acute psychiatric hospital | 900 | | |
| Special hospital | 0 | | |
| Chemical dependency recovery hospital | 600 | | |
| | <u>24,761</u> | <u>22.82%</u> | <u>\$5,443,448</u> |
| Long-term care facilities: | | | |
| Skilled nursing facility | 69,987 | | |
| Intermediate care facility | 3113 | | |
| Intermediate care facility/develop. disabled | 10,628 | | |
| | <u>83,728</u> | <u>77.18%</u> | <u>\$18,410,400</u> |
| Total | <u>108,489</u> | <u>100.00%</u> | <u>\$23,853,848</u> |

Fees

| | <u>Number of Facilities</u> | <u>Number of Beds</u> | <u>Amount</u> | <u>Fee per Bed</u> |
|--|---------------------------------|---------------------------|---------------------|--------------------|
| General acute care facilities: | | | | |
| General acute care hospital | 504 | 106,276 | | |
| Acute psychiatric hospital | 90 | 10,859 | | |
| Special hospital | 6 | 24 | | |
| Chemical dependency recovery hospital | 12 | 722 | | |
| Total | <u>612</u> | <u>117,881</u> | <u>\$5,443,448</u> | <u>\$46.18</u> |
| Long-term care facilities: | | | | |
| Skilled nursing facility | 1,211 | 117,979 | | |
| Intermediate care facility | 19 | 1,185 | | |
| Intermediate care facility/develop. disabled | 28 | 1,748 | | |
| Total | <u>1,258</u> | <u>120,912</u> | <u>\$18,410,400</u> | <u>\$152.26</u> |

Recap

| | <u>Fee Per Bed</u> | |
|-----------------------------|--------------------------------------|-------------------------------------|
| | <u>L&C Original Schedule</u> | <u>Alternative Fee Schedule</u> |
| General Acute Care Facility | \$48.25 | \$46.18 |
| Long-Term Care Facility | \$160.27 | \$152.26 |
| Net Revenue Required | \$25,018,126 | \$23,853,848 |

Note: Shaded figures have been changed from L&C's Original Fee Schedule as represented in Exhibit I.



**ISSUE #2
FEE SCHEDULE
METHODOLOGY****Condition**

Section 1266 of the Health and Safety Code is written such that a straight implementation of the fee methodology requirement gives rise to a fee schedule that could be unfairly presented. Specifically, it requires L&C to use the Governor's recommended budget and the Federal funds budget for the current fiscal year to estimate program expenditures. The Governor's recommended budget and the federal funds budget are often not representative of "actual" expenditures incurred by L&C for its program. For example, in the current fiscal year, there was a difference of \$9.7 million. L&C, however, has no budgetary authority to use the additional \$9.7 million in revenue as it is accounted for as an offset to the General Fund.

A secondary problem with the requirements of Section 1266 is with its prescribed format for the fee schedule. This particular part of Section 1266 is very specific on the format and content of the fee schedule. It results in a fee schedule that is not intuitively obvious to the average person who may read its content. For example, the first line of the schedule (refer to Exhibit I in Issue 1) begins with budgeted general fund expenditures. Next is line item 2, which is a category of revenue adjustments of non-section 1266 fees. Following that information is line item 3, federal funds budgeted and estimated receipts. It goes from expenditures in one fund, to revenues, then back to an entirely different method for determining expenditures in another fund. This format would appear appropriate as a more detailed schedule prepared by L&C as it is fund based, but a summarized and more simplified version may be more appropriate for distribution to outside parties.

Cause

An implied assumption of Section 1266 is that the Governor's recommended budget and the federal funds budget during any fiscal year are a reasonable estimate of L&C's actual expenditures. It is likely that this decision was made for Section 1266 as recommended budget amounts were thought to be the best information available at the time the fee schedule is prepared. Since the fee schedule is prepared early in the fiscal year, this appears to have been a reasonable decision. However, specifically for fiscal period ended June 30, 1993, and also other recent fiscal years, the Governor's recommended

budget and federal funds budgeted have been significantly greater than the actual expenditures incurred by L&C. Thus, the root cause of this issue is the budget development process.

L&C's budgets are developed centrally by the Department of Health Services. The problem of budget development for L&C has been identified by the audit team as a separate and distinct problem and is further discussed in Issue 4 of this report.

Effect

By using budget information to estimate expenditures, the fee schedule prepared by L&C for the 6-30-93 period pursuant to Section 1266 (Exhibit I) overstates actual expenditures by approximately \$9.7 million. If L&C's fee schedule for 6-30-93 was adjusted for this amount, the fees per bed for general acute care and long-term care facilities would be re-stated as follows in Figure 2-a.

Figure 2-a
Methodology Fee Summary

| Fee Per Bed | | |
|-------------------------------|-----------------------|-----------------------|
| Facility Type | L&C Original Schedule | Revised* Fee Schedule |
| General Acute Care Facilities | \$48.25 | \$29.59 |
| Long Term Care Facilities | \$160.27 | \$97.56 |

* If fee methodology was corrected by amending Section 1266, this would be the revised fee schedule.

Exhibit I contains L&C's Original Fee Schedule prepared for the fiscal period ended June 30, 1993, and provides the detailed calculations for the \$48.25 and \$160.27 fees listed in the above table. A Revised Fee Schedule has been prepared by the audit team that contains an adjustment for the \$9.7 million overstatement of expenditures. This schedule is presented in Exhibit III and provides the detailed calculations for the \$29.59 and \$97.56 fees included in the above table. Errors discovered in L&C's Original Fee Schedule (Exhibit I), which were discussed in Issue 1 of this report, are also included as adjustments to the Revised Fee Schedule in order to present the most accurate fees.

The \$9.7 million overstatement of expenditures is comprised of the following differences (Figure 2-b) in bud-

geted and actual amounts, and an error in estimating federal receipts:

Figure 2-b
Budget vs. Actual Amounts

| | |
|---|---------------------|
| Budgeted expenditures (general and federal fund combined) per Exhibit I | \$60,632,499 |
| Actual expenditures per Exhibit III | <u>\$51,335,720</u> |
| <i>Difference</i> | <u>\$9,296,779</u> |
| Estimated federal receipts per Exhibit I | \$33,174,986 |
| Estimated federal receipts per Exhibit III | <u>\$33,612,428</u> |
| <i>Difference</i> | <u>\$437,442</u> |
| Total | <u>\$9,734,221</u> |
| Rounded | <u>\$9,700,000</u> |

Conclusion

Section 1266 of the Health and Safety Code, as currently written, could result in higher licensing fees for general acute care and long-term care health facilities, because the fees are not reflective of the resources actually expended by L&C in providing its licensing services.

Recommendation

The Legislature should consider amending Section 1266 of the Health and Safety Code, such that:

- Each annual fee schedule is adjusted to reflect discrepancies between "estimated" figures and "actual" figures used in the *previous* fiscal year. A special fund should be established to manage these adjustments and to allow re-appropriations if revenues exceed actual expenditures in any given fiscal year. These revisions are the most important ones out of the recommendations, as over time, they will provide a mechanism for adjusting fees to reflect actual resources expended by L&C regardless of the methods used to estimate expenditures. Finally, these suggested revisions are very specific as the current Section 1266 is very detailed with respect to actual preparation of the fee schedule.

- It requires estimates of expenditures and revenues to be based on actuals in the year that the fee schedule is prepared (instead of budget amounts) - to the extent available - and to base the remaining projection for the year on prior year history of actuals and recognition of major events included in the budget plan of the current year.
- The fee schedule is re-formatted to employ a "Total Cost Approach". That is, begin the schedule with total L&C estimated expenditures (regardless of fund) and adjust this line item with estimated credits (revenues, prior year estimate discrepancies, etc.). An example of this format is used for the Revised Fee Schedule in Exhibit III. Although this is purely a format change, it will make the fee schedule more readable to external parties.

Finally, the Legislature needs to decide if action in the current fiscal year is necessary to address the overstatement of fees by approximately \$9.7 million. It is important that the workload of L&C be recognized in this decision as to the overall impact to fees. That is, as discussed in Issue No. 5 and No. 12, L&C is not currently meeting all of the mandatory requirements. This is due, in part, to a lack of financial resources. Ultimately, L&C's goal should be to meet all state and federal mandates and collect fees accordingly.

The Revised Fee Schedule in Exhibit III is provided in this report to illustrate the problem with the present fee methodology as currently required by Section 1266. The fees contained in L&C's Original Fee Schedule (Exhibit I) have already been used in the current fiscal year to bill health facilities that were either issued a new license or renewed their existing ones. Health facilities for fiscal 1993 have been billed a total of \$7,072,209 as of December 3, 1993. This represents approximately 28% (based on the \$25,018,126 of revenue estimated in Exhibit I) of the estimated licensing revenue to be collected by L&C for general acute care and long-term care health facilities.

EXHIBIT III
REVISED FEE SCHEDULE
30-Jun-93

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1. 1992-93 Estimated Expenditures:

| | |
|--|---------------------|
| Year-to-Date Expenditures Per CALSTARS | \$49,780,997 |
| Encumbrances Per CALSTARS | <u>\$1,554,723</u> |
| | <u>\$51,335,720</u> |

2. Less Projected Revenue for 1992-93 generated by:

| | |
|---|----------------|
| Referral agencies (HSC Sec. 115(a) & 1403.1) | \$9,366 |
| Adult day health centers (HSC Sec 115(a) & 1575.9) | 2,528 |
| Home health agencies (HSC Sec. 115(a)(b) & 1729) | 403,984 |
| Clinics (HSC Sec. 1214): | |
| Community clinic | 119,730 |
| Free clinic | 33,849 |
| Psychology clinic | 5,287 |
| Rehabilitation clinic | 22,565 |
| Surgical clinic | 79,265 |
| Chronic dialysis clinic | <u>171,453</u> |
| Total clinics | 432,149 |
| Congregate living health facility (HSC Sec. 1266(f)) | 3,000 |
| ICF/DD-Habilitative (CCR, Title 22, Section 76846) | 176,455 |
| ICF/DD-Nursing (HSC 1275.3(c)) | 43,868 |
| Nurse assistant application fee | 402,102 |
| Nurse assistant renewal fee (CH. 177/1987, HSC Sec. 1337.7) | <u>638,497</u> |
| Nurse assistant certification fees | 1,040,599 |
| License information and material fee | <u>21</u> |
| | (\$2,111,970) |

3. 1992-93 Estimated Federal Revenue (\$33,612,428)

4. Prior year revenue adjustment for 1991-92:

| | |
|----------------------------------|----------------|
| Projected 1991-92 revenue | 25,588,669 |
| General acute care hospital fees | 3,343,267 |
| Acute psychiatric hospital fees | 542,407 |
| Special hospital fees | 62,708 |
| Skilled nursing facility fees | 21,383,979 |
| ICF fees | 390,953 |
| ICF-DD fees | <u>192,772</u> |
| Actual 1991-92 revenue | 25,916,086 |
| | (\$327,417) |

5. Net revenue required for 1992-93 \$15,283,905

'Note: Shaded figures have been changed from the Alternative Fee Schedule, as represented in Exhibit II.

EXHIBIT III
REVISED FEE SCHEDULE
 30-Jun-93

6. Fee per bed computation

| Time Allocation | Time (Hours) | Percentage | Amount |
|--|---------------|----------------|---------------------|
| General acute care facilities: | | | |
| General acute care hospital | 4,652 | | |
| Acute psychiatric hospital | 180 | | |
| Special hospital | 0 | | |
| Chemical dependency recovery hospital | 120 | | |
| | <u>4,952</u> | <u>22.82%</u> | <u>\$3,488,151</u> |
| Long-term care facilities: | | | |
| Skilled nursing facility | 13,997 | | |
| Intermediate care facility | 623 | | |
| Intermediate care facility/develop. disabled | 2,126 | | |
| | <u>16,746</u> | <u>77.18%</u> | <u>\$11,795,754</u> |
| Total | <u>21,698</u> | <u>100.00%</u> | <u>\$15,283,905</u> |

Fees

| | Number of Facilities | Number of Beds | Amount | Fee per Bed |
|--|-------------------------|-------------------|---------------------|----------------|
| General acute care facilities: | | | | |
| General acute care hospital | 504 | 106,276 | | |
| Acute psychiatric hospital | 90 | 10,859 | | |
| Special hospital | 6 | 24 | | |
| Chemical dependency recovery hospital | 12 | 722 | | |
| Total | <u>612</u> | <u>117,881</u> | <u>\$3,488,151</u> | <u>\$29.59</u> |
| Long-term care facilities: | | | | |
| Skilled nursing facility | 1,211 | 117,979 | | |
| Intermediate care facility | 19 | 1,185 | | |
| Intermediate care facility/develop. disabled | 28 | 1,748 | | |
| Total | <u>1,258</u> | <u>120,912</u> | <u>\$11,795,754</u> | <u>\$97.56</u> |

Recap

| | Fee Per Bed | | |
|-----------------------------|--------------------------|-----------------------------|-------------------------|
| | L&C Original Schedule | Alternative Fee Schedule | Revised Fee Schedule |
| General Acute Care Facility | \$48.25 | \$46.18 | \$29.59 |
| Long-Term Care Facility | \$160.27 | \$152.26 | \$97.56 |
| Net Revenue Required | \$25,018,126 | \$23,853,848 | \$15,283,905 |

Note: Shaded figures have been changed from the Alternative Fee Schedule, as represented in Exhibit II.

**ISSUE #3
FEE SUBSIDY****Condition**

The overall current fee methodology used by L&C results in general acute care and long-term care health facilities subsidizing L&C's services to other health facilities (e.g., intermediate care facilities/developmentally disabled-habilitative and nursing, clinics, congregate living health facilities, etc.). Fees for these other facilities are fixed and some of these fees are significantly less than the actual costs incurred by L&C.

As discussed in Issue 1 of this report, L&C has two general types of fees it charges health facilities: fixed fees and fees based on estimated costs (cost based) to provide the services. Except for a few miscellaneous services, all fees are defined in Section 1266 of the Health & Safety Code or other statutes. The law stipulates whether these fees are fixed or cost-based; L&C does not make the determination.

Cause

General acute care and long-term care health facilities' fees are calculated pursuant to Section 1266 based on L&C's total organizational budget (all funds) not recovered through other fixed fee revenue, federal funds, or other program revenue. That is, general acute care and long-term care health facilities' fees essentially are calculated to recover any estimated budget shortfall. None of the other facilities that L&C licenses have their fees calculated within the fee methodology required by Section 1266. The other facilities' fees are set by statute at a specific dollar amount even though L&C may have an increasing amount of workload for these facilities.

Effect

There is a certain amount of inequity within the current fee methodology. The inequity of fees could become worse since the federal workload requirements for most facilities have increased. This is due to recent implementation of the Omnibus Budget Reconciliation Act (OBRA) which has significantly increased the tasks required for the survey process and the reporting requirements, with no increase in federal dollars. The OBRA Certification surveys take three times as long as prior surveys or licensing surveys. Three of the more significant discrepancies between the fixed fees charged to facilities and the actual costs are included in Figure 3-a (all three facilities are affected by OBRA requirements).

**Figure 3-a
Fixed Fee vs. Actual Costs**

| | |
|--|-------------------------|
| Intermediate Care Facilities (DD-H/DD-N): | |
| Annual estimated costs | \$1,069,000 |
| Annual estimated revenue | <u>\$195,000</u> |
| Subsidy | <u>\$874,000</u> |
| Clinics: | |
| Annual estimated costs | \$74,000 |
| Annual estimated revenue | <u>\$2,000</u> |
| Subsidy | <u>\$72,000</u> |
| Congregate Living Health Facilities: | |
| Annual estimated costs | \$45,000 |
| Annual estimated revenue | <u>\$32,000</u> |
| Subsidy | <u>\$13,000</u> |
| Total Subsidy | <u>\$959,000</u> |

We estimated the costs in Figure 3-a using workload standards established by L&C and assuming an average hourly rate of \$26 for surveyor personnel. Annual productive hours for a surveyor were estimated at 1,880 which is adjusted for vacation, holidays, and personal days of absence. Also, annual benefits were assumed to be 31% of salary.

The revenue was based on the fixed fees currently prescribed by law and were multiplied by the estimated number of services to be performed based on L&C's workload standards.

Conclusion

The fee methodology is inequitable. Fixed fees currently charged to certain health facilities are significantly less than the actual costs necessary for L&C to perform the services according to the law and applicable regulations.

Therefore, non-fixed fee facilities are further increasing the subsidy of fixed fee facilities with each additional federal requirement (e.g., OBRA requirements).

Recommendation

The Legislature should re-evaluate the fixed fees afforded certain facilities under Section 1266 and other applicable statutes. It should request the Department of Health Services to prepare an analysis estimating actual costs to provide services for those facilities currently being charged a fixed fee. The Legislature should then decide whether it wants to retain these fees or change them.

ISSUE #4 BUDGET FUNCTION

Condition

There is a lack of timely budget reporting from the Department level to L&C for tracking, monitoring, and decision making. Consequently, L&C has difficulty in monitoring its budget performance during the year.

Also, the budget development process for fiscal 1993 produced budgets that were not representative of L&C's actual program operations. This was initially discovered in our audit of the fee schedule as discussed in Issue 2. For fiscal year 1993, we estimated that L&C's budget will be \$9.7 million greater than the actual expenditures.

Cause

With respect to the budget monitoring condition, it appears that the usage of CALSTARS (the Department's accounting system) has not been optimal. CALSTARS was implemented at the Department approximately two years ago. They have experienced a number of problems with CALSTARS in terms of understanding its functionality and key reporting capabilities. Fiscal staff at the Department level and L&C have not had adequate training on this new accounting system.

Regarding the budget development condition, the primary cause was the Department's underestimation of additional funding from HCFA to reimburse L&C for costs incurred to comply with the recently enacted OBRA requirements.

Effect

Budgets are intelligent estimates to provide financial direction to an organization. L&C's budget, however, for fiscal 1993 is estimated to be overstated by \$9.7 million. That is approximately a 20% deviation from actual expenditures and associated reimbursements from fees.

Although in fiscal year 1993 it does not appear that L&C incurred expenditures in excess of its actual revenue (especially for the federal funds reimbursements), the risk was present during the year as the spending authority exceeded the actual expenditures. Since budgets at L&C were not monitored on a timely basis as discussed earlier, this risk was even greater. Thus, budgets (especially revenue estimates) should be prepared that are as realistic as possible to prevent fiscal problems.

Budget monitoring is a crucial function in any organization. L&C is operating without meaningful, timely information, and therefore, is unable to ensure responsible fiscal management. It is especially difficult for L&C to properly plan for future fiscal events if they are unsure as to their current budget status during the operating year. Additionally, the lack of timely information may cause delays in meeting federal reporting and billing timeframes. Currently, L&C is required by HCFA to bill them on a quarterly basis for reimbursement of costs incurred for that quarter. Untimely accounting information adds to the already delayed billing process which increases the cost of money associated with financing L&C's operations.

Conclusion

There is no timely mechanism for monitoring the budget expenditures at the program level, and therefore, L&C does not know how much money has been spent, how much is available, and how much L&C can request from HCFA for reimbursement. L&C needs to obtain CALSTARS information timely enough to compare monthly and quarterly reports for budget monitoring purposes. L&C also needs to focus on preparing realistic annual revenue and expenditure budgets. It should increase its participation in the Department's budget development process.

Recommendation

The Department should pursue the following:

- Provide CALSTARS training to key fiscal staff at the department and L&C levels. An emphasis should be placed on usage of standard CALSTARS' reports and its capabilities.
- Investigate options available on CALSTARS to better assist L&C with budget monitoring and development.
- If, after investigating CALSTARS, it is determined that it is not responsive, consider developing stand-alone budget monitoring reports through the use of standard spreadsheets. The base information for these spreadsheets should be from CALSTARS with manual adjustments to reflect accruals and/or transactions not processed on CALSTARS due to timing differences. These adjustments should be done through simple analytical techniques (e.g., assume straight time for travel expenditures) where appropriate as opposed to more precise (and time consuming) detailed techniques.

These spreadsheets should be viewed as barometers of budget performance and not as a precise accounting system (precision is the role of CALSTARS).

- Increase involvement of L&C management in the annual budget development process with the goal of achieving a budget that is more representative of its program. There has been some improvement by L&C in its budget development process. HCFA has recognized this and believes the fiscal year 1994 budget reflects a more realistic budget. However, more improvement is still warranted in this area.

ISSUE #5

HCFA MANDATES

Condition

L&C is not completing all of the Priority 1 (See Page 4 of Appendix A) federal mandates of the Health Care Financing Administration (HCFA). Per the Budget Call Letter from HCFA, survey activities shall be scheduled and conducted in accordance with national priorities. According to HCFA, the priority ranking reflects program emphases and budget realities.

Priority 1 includes initial surveys. They have the highest priority according to the budget call letter from HCFA. In order to participate in Medicare and/or Medicaid, a provider or supplier must first be surveyed and found to meet all federal requirements. If following the survey, the facility is found out of compliance, the denial of certification shall be processed promptly.

Also included within Priority 1 mandates are the minimum coverage levels. All Long Term Care (LTC) facilities and Home Health Agencies (HHAs) must be surveyed and certified on an average of every 12 months. L&C must ensure that it meets the following minimum mandated coverage levels by facility type as indicated in Figure 5-a:

Figure 5-a
Minimum Mandated Coverage Levels

| Facility Type | Coverage Level |
|-----------------------------------|----------------|
| Skilled Nursing Facility (LTC) | 100% |
| Nursing Facility (LTC) | 100% |
| Intermediate Care Facility (LTC) | 100% |
| Home Health Agencies | 100% |
| Mammography (Radiological Health) | 50% |
| All others | 10% |

According to HCFA, Priority 2 includes complaint surveys (complaints relating to the facilities). Complaints indicating immediate and serious threat to patient health and safety shall have priority. An on-site visit will be necessary if the complaint alleges a serious threat to patient health or safety.

Cause

There has been an increase in OBRA requirements which has resulted in survey completions taking more time. Priority 1 surveys are extremely time intensive to complete. HCFA does not include within the definition of a Priority 1 survey responses to complaints. However, the State places a higher priority upon complaint surveys (Priority 2). L&C's workload is weighted heavily for complaint surveys, and it would stand to reason there may not be enough time to accomplish all initial surveys. There appears to be a lack of surveyors to accomplish both Priorities 1 and 2.

Effect

Although, as recently reported by HCFA, L&C has made a significant improvement in fiscal year 1993 from previous years, it still is currently unable to complete the required Priority 1 mandates within the required timeframes. This includes both the minimum coverage levels (as discussed in Condition) as well as surveying the LTC facilities and HHAs within the required timeframes (on an average of every 12 months). There is the potential for financial liabilities assessed by HCFA for noncompliance and/or reduction of future funds.

Conclusion

Because of State policy, it is almost impossible to complete all the Priority 1 mandates of the federal government. The State places a higher priority on complaints than HCFA due to a potential threat to health and safety. Consequently, Priority 1 surveys may not be completed as mandated by HCFA.

The HCFA Budget Call Letter (revision) dated September 28, 1992, from HCFA specified that "it was imperative that L&C accomplish the mandated workload with the funds provided in that budget. For several years L&C has not accomplished all of the required surveys. This year must be different. If changes are required in the numbers of surveyors or the extent of time allowed for Long Term Care facilities (LTC) surveys in order to have time and staff for surveys of other types of facilities, then the changes should be made. HCFA will cooperate with L&C to evaluate and implement such changes. In addition, it is essential that L&C secure and maintain accurate data of

accomplishments which is entered timely into the HCFA data system to back up its expenditure claims."

In reviewing a recent OSCAR report (federal reporting system), we concluded that full compliance with completion of the Priority 1 minimum coverage levels were not met within the required timeframes. This is illustrated in Figure 5-b.

**Figure 5-b
Current Priority 1 Compliance**

| Facility Type | Survey Facility Sampled | Surveys Not Completed Within Required Timeframe | Compliance Failure Rate |
|---|-------------------------|---|-------------------------|
| Long-Term Care Facilities* | 1,358 | 48 | 3.5% |
| Home Health Agencies | 522 | 224 | 42.9% |
| * Includes skilled nursing, nursing, and intermediate care facilities | | | |

The survey activities for long-term care facilities is approximately 70% to 80% of L&C's workload, and there has been a significant improvement in fiscal year 1993 in L&C's compliance with completing Priority 1 surveys of long-term care facilities. However, based on our sample in Figure 5-b, they still have a compliance failure rate of 3.5%. Although L&C's workload is considerably less for HHA's, L&C's compliance with timely completion of Priority 1 surveys for that facility type is much more severe. It has a compliance failure rate of 42.9% based on our sample size.

Recommendation

The Department should pursue the following:

- Develop a better understanding with HCFA as to the interpretation of the priorities and L&C's ability to accomplish those priorities.
- Continue efforts for additional staff (surveyors) for adequate coverage.
- Ultimately, the goal for the department should be to comply with the Agency Budget Call Letter through changes in staffing levels or redirection of priorities, or negotiate with HCFA to change mandatory workload requirements.

**ISSUE #6
FACILITY
PREPAREDNESS****Condition**

Approximately 104 health facilities are unprepared to undergo their initial survey. Following notification to the field office that they believe they are ready for an inspection, the survey team will travel to the facility to conduct the inspection survey. If the facility is not fully prepared for the survey, the survey team is unable to complete its work, and consequently, will have to revisit the facility at a later date.

Cause

Health facilities are not sufficiently oriented as to the full requirements of an annual survey.

Effect

L&C sometimes has to make multiple visits to a facility to complete a survey. In 1992, there were approximately 104 surveys out of 1,847 surveys scheduled which were re-classified as preclicensing surveys due to the fact that the facilities were unprepared. In FY 1993, this number decreased to 56 out of 1,752 surveys scheduled. This number is still rather significant when the number of hours to perform this task is taken into consideration. The Workload Summary for September 1993 shows that each preclicensing survey took an average of 38 hours. Preclicensing surveys result in increasing the average time and cost of an initial survey.

Conclusion

This has the potential to be a major problem contributing to the untimely completion of surveys. L&C has provided seminars to certain facilities to educate and prepare them for the survey process. However, other techniques need to be explored to increase facility preparedness.

Recommendation

The Department should develop for facilities a simple self-diagnostic checklist containing all major requirements. A regulatory reference should be included for each major category on the checklist. The checklist should become an ongoing part of the training currently offered to facilities via seminars.

L&C should consider implementing direct financial penalties for facilities that are not prepared on the first visit.

ISSUE #7 ANTIQUATED SYSTEMS

Condition

Antiquated automated systems are used to support the L&C survey reporting process. Not only do the individual information systems (OSCAR/ACLAIMS) lack functionality, they are also not integrated. This issue is further compounded by the inability to easily retrieve information from the system due to an inadequate report writer.

ACLAIMS is the Automated Certification and Licensing Administrative Information Management System. It is a management information system utilized to track all information dealing with all the facilities that Licensing and Certification licenses and/or certifies. It is a state system which HCFA helped to develop prior to the development of OSCAR. OSCAR is the primary federal system for input of certification activities. The main-frame system is located physically in Baltimore, Maryland, and accessible to L&C by modem. ACLAIMS and OSCAR are proprietary systems; therefore, L&C does not have the ability to modify these systems.

OSCAR does not integrate with ACLAIMS. ACLAIMS will only interface with the surveyor's laptop software (a word processing package called ASPEN). The ASPEN information is interfaced nightly with ACLAIMS, which then enables L&C to generate certain basic reports that the federal system (OSCAR) is unable to produce.

Another problem with ACLAIMS is its recent upgrade to a new, more state-of-the-art management data base system and report writer. Personnel at the field offices and headquarters have not been able to access information on this system due to the apparent lack of training or knowledge of the new system. Some of the field offices are not even aware that ACLAIMS was converted to a new database system.

Cause

There is a lack of strategic systems planning and implementation of integrated solutions for ongoing external (federal and/or state) requirements. Until recently, there has been a lack of management support for strategic system planning. In addition, HCFA is developing systems without input from the states.

Effect

The result of having non-integrated systems is a time-consuming and error-prone survey reporting (including complaint investigations) process. For example, the database of the OSCAR system, as stated in the State Agency Evaluation Process (SAEP) report (a HCFA report), was 49% inaccurate (however, no penalties were assessed by HCFA for this incident) during the period reviewed due to faulty data entry procedures. It should be noted here that HCFA's measurement (i.e., 49%) of database accuracy during their review was liberal. That is, if one data element of the form entered into the system was inaccurate, the entire form was considered in error even if all other data elements for that form were correct. Nonetheless, data entry errors of this magnitude are not conducive to an efficient running system.

Due to the inaccessibility to users of the ACLAIMS system, too many logs and procedures are performed manually. For example, the field offices have a very heavy workload with the citation collection process. Each field office is responsible for the collection of citation civil money penalty fines for compliance violations as well as the issuance of such citations. A number of manual logs and procedures have been developed at many of the field offices to support the citation process. Most of the information tracked manually is maintained on the ACLAIMS database but is not accessible.

Conclusion

Although there are currently a number of systems used within L&C, most of them are not integrated. As stated previously, OSCAR is not integrated with ACLAIMS or with ASPEN. Surveyors enter information into the ASPEN system. From there, the surveyor takes either the resultant hard copy or disk to the administrative support staff who then keys in the same information into the OSCAR system.

Recommendation

The Department should pursue the following:

- Evaluate short-term technology solutions recently proposed by its Data Systems Branch and consider implementing low-cost high-return solutions that will not be in conflict with longer-term solutions developed through a strategic systems plan.
- Request its Data Systems Branch to continue its development of a strategic information systems plan



(i.e., assess technology currently being used, evaluate alternatives, feasibility study, etc.).

- In the interim, data entry controls (e.g., reconciliation, batch controls, review, etc.) should be strengthened. Similar controls should be implemented if a new system solution is developed.
- Specific to ACLAIMS:
 - .. Hold work sessions to identify reports needed by field offices and central staff and develop high priority ones first.
 - .. Train field office and technical staff (both headquarters staff and Data Systems Branch) on the new ACLAIMS report writer.
 - .. Distribute standard core reports on a routine basis.

ISSUE #8
POLICY AND
PROCEDURES
DOCUMENTATION

Condition

The management and organizational policy and procedures documentation is predominately manual. This situation is compounded by the multiple sources of documentation required to administer the program. For example, there were at least 38 manuals in one district administrator's office. Documentation includes State Operations Manual (federal policy and procedures), State Agency Letters (federal policy and procedures), state and federal regulations, State Administration Manual, Health Administration Manual, associated state statutes, regulations, Social Security Act, etc. It is impractical to manage the volumes of hard copy documentation kept in binders, especially when most of the binders do not contain a useful or, in some cases, do not even have, an index.

Cause

L&C is administering a complex program which is governed by multiple federal and state directives. This results in the need for numerous types of reference documentation to address program requirements. Currently, this documentation is predominately manual. Storage of the volumes of policies and procedures in binders makes the management, maintenance and access to this documentation impractical and ineffective.

Effect

Access to all forms of documentation is time consuming and error prone due to the large volume of field office inquiries. In many cases, the same or similar inquiry is made by more than one field office but is asked at different times. The Policy Unit may not be aware of its previous response to inquiries or were unable to practically retrieve the response from its manual files or PROFS (electronic mail).

Additionally, the number of volumes of documentation makes it difficult to update information. It was noted that not one 1993 supplement of the Health & Safety Code was available at headquarters. Only one operations manual with a complete set of policies and procedures was available to the headquarters staff.

Conclusion

The current method for managing the volumes of documentation is inappropriate for L&C's needs. The only form of communication available currently to link the field office and headquarters is PROFS. Although some of the Policy Units' responses to individual field office questions are logged on PROFS, this form of automation is not intended to serve as a fully functional database system. As a result, there is an inability to access all relevant documentation on a practical and timely basis. This most often leads to the inconsistent implementation of policies.

Recommendation

The Department should implement immediate measures for ensuring the uniform communication and application of program policies and procedures. We recommend the following:

- Automate the management of policy and procedures and key legal and regulatory documentation. The following two automation options should be studied by the Department:
 - .. **CD ROM Technology:** This option would entail storing all pertinent documentation on compact disks (CD) which would be accessible through a personal computer (PC) configured with a CD ROM player. Converting the documentation to CD's could be accomplished by contracting with an outside vendor who specializes in that area. Also, some application development will be required to manage and retrieve the data from the CD's. Implementation of this option may have a substantial one-time investment, but the cost savings in the future should be offsetting.
 - .. **PC Data Base:** This option consists of creating an indexing system using one of the data base management systems currently available on the market (e.g., Dbase XX, Oracle, etc.). In short, it would entail creating an automated index of major topics contained in the various documentation sources and linking those topics to key words. L&C staff could then search the data base for key words and obtain reference information to the authoritative documentation (e.g., policy statements, regulations, statute, etc.). The advantage of this option is its simplicity with respect to implementation and a low initial investment. Over the long-term, however, it will not generate the

cost savings of the CD ROM option discussed above as the manual binders will still exist.

- Regardless of which of the above two automation options are implemented by the Department, the following matters will need to be addressed:
 - .. Develop a field office communication strategy (e.g., modems which most field offices already have on their PC's) to access the new system remotely.
 - .. Train staff on the new system for managing documentation.
- In addition to improving the management of the current manual documentation, the following operational changes should be implemented:
 - .. Establish a hotline at headquarters for supervisors and evaluators to use for immediate or urgent assistance.
 - .. Create a newsletter to allow for communication where questions are posed and questions are answered.
 - .. Maintain an up-to-date library centrally at the Policy Unit containing a master set of policy and procedure documentation and all regulation references. This should be done regardless of the system option chosen. However, if the CD ROM option is selected the field offices should no longer maintain its own documentation.

ISSUE #9 CNA APPLICATION PROCESSING

Condition

Overtime is the primary solution currently employed for reducing the backlog of Certified Nurse Aide (CNA) certifications. The standard CNA certification processing time is currently averaging up to 45 days. Until recently, it was as high as 12 weeks which is the maximum time allowed per statute. Although a 12-week processing time is within statute, L&C believed it was not adequate with respect to customer service and, therefore, applied the necessary resources to achieve full customer service within the current 45 day processing time. This policy resulted in extensive use of overtime. The use of overtime, however, significantly increases the average processing cost of an application. Other techniques and personnel changes may be more cost effective.

Another problem exists in the disproportionate number of telephone inquiries made to check application status once the processing time has exceeded a few weeks. The large volume of telephone inquiries distracts personnel from processing applications. Thus, a more significant backlog evolves which further leads to a longer days-to-process time.

Cause

The primary cause of this problem is the approximate 47% increase in application volume from the prior fiscal year without a proportionate increase in personnel. Consequently, the backlog in the current year increased significantly at certain points. Hence, overtime was utilized.

Other contributing factors to the lengthy processing time include:

- Form letters are produced manually
- Inefficient automation of HAL screen sequencing (HAL is a mainframe computer system located at the California Health and Welfare Data Center that handles the state as well as the federal certification process of CNA's and the Nurse Aide Registry.)
- Significant volume of problematic (incomplete/incorrect) applications
- Incoming documents are being sorted more than once

- Additional time involved in reviewing applications/forms for new Federal requirements

Effect

There is an increase in the average cost-to-process the applications due to the overtime utilized to address the backlog.

Conclusion

The method currently used (e.g., overtime compensation) by L&C to maintain a 45-day goal is not cost-effective. Other non-personnel changes to the CNA process could be implemented to reduce the average days-to-process and average cost-to-process.

Recommendation

The Department should pursue the following:

- Evaluate staffing levels in recognition of the approximate 47% increase in volume in the current fiscal year. Specifically, prepare a cost/benefit analysis to determine if it would be more economical to hire permanent staff or temporary staff to drive down average cost of processing applications (via avoidance of overtime compensation) and to decrease the average days to process an application.
- Enhance the existing electronic voice system to allow applicants to check status.
- To reduce the number of telephone inquiries, send a computer-produced form letter (PC Word Processor) to indicate acknowledgment of receipt of the application and to indicate estimated time lapse (set the expectation up front of average processing time of 45 days).
- Assign limited number of staff specifically to backlog and focus on current applications to prevent the backlog from growing.
- Enhance HAL system to have automatic screen sequencing (when entering data on one screen and one hits enter key on that screen, it will automatically go to next screen. Currently, screen number must be entered in order to go to another screen).
- For renewals, use pre-printed forms containing applicant information existing on system database and require applicants to review applications and only change incorrect data. This would require an enhancement to the current system and would reduce problematic applications.

ISSUE #10 CITATION COLLECTION PROCESS

Condition

As discussed in Issue 7 of this report, ACLAIMS is a system utilized to track all information pertaining to the licensing and certification of facilities. It is being used, in addition to other primary citation functions, as a citation accounts receivable system when it was not initially designed to perform accounting functions. It was initially designed to support the field offices in the creation and tracking of citations.

A brief description of the citation process is as follows: The field office performs the initial investigation of a problem or complaint. If a citation is issued at the end of the process, the field office records the citation information on ACLAIMS. At that point, the amount assessed for the citation is essentially an accounts receivable transaction and is tracked on ACLAIMS as it is the only system available for that task.

Specifically, the issue consists of the following conditions:

- It is not possible to obtain accurate and timely accounting information from ACLAIMS normally utilized to manage an accounts receivable function (e.g., standard citation payments, citation payments received through the medical offset program, citation reductions by field offices, etc.). Most of these problems are timing related and are caused by the number of manual procedures performed (due to a lack of ACLAIMS functionality), reliance on field offices to update their Local Area Network (LAN) databases with current citation information, and manual interfaces with other external systems (e.g., medical offset program) currently in existence.

Because ACLAIMS' database is not accurate and complete, critical reports for managing the accounts receivable process are not generated. For example, an aged receivables report is not currently produced showing how long a citation receivable has been outstanding (e.g., 30 days, 60 days, 90 days, etc.). Also, a report is not produced to determine the nature and amount of citations written-off in a fiscal year. Thus, accountability is difficult to maintain. These reports (and other similar types of reports) have been created in the past, but since the information was inaccurate

or incomplete, they were not used by management and, consequently, have been discontinued.

- ACLAIMS accounts for citation assessments on a cash basis as opposed to an accrual basis. Therefore, it is not possible (without a significant manual effort) to decipher which of the citation amounts issued (i.e., the accounts receivable transaction) have been collected in the current fiscal year.
- Running reports on ACLAIMS to consolidate accounts receivable information from all field offices is very slow as a data extract routine must first be run across all 18 LANs. That is, since ACLAIMS computing processes are decentralized on the various LANs physically located at the field offices, the data from these 18 LANs must be combined in order to generate a meaningful accounts receivable report for the entire L&C organization.
- ACLAIMS is not capable of calculating interest on overdue citations. This must be done manually.

Cause

ACLAIMS was never designed to serve as a fully functional accounts receivable system. Its primary function is to support the creation and tracking of citations.

Effect

Citations issued (civil money penalties) for the seven-month period ended July 31, 1993 amounted to approximately \$2 million. For the same period, L&C has only collected \$1.2 million. This represents approximately \$800,000 in uncollected citations (i.e., receivables). It is difficult to analyze on ACLAIMS the nature of the \$800,000. For example, some citations may be significantly overdue and need additional collection efforts performed by L&C, or some citation amounts may have been written-off or reduced by L&C. To further compound the problem (as discussed earlier), ACLAIMS only tracks payment of citations on a cash basis. Therefore, it is not even completely correct to compare the \$800,000 of uncollected receivables to the gross citations of \$2 million issued in fiscal year 1993.

Conclusion

The potential risk exists that citation revenues are not being maximized due to an inadequate accounts receivable system.

Recommendation

The Department should pursue the following:

- Conduct a feasibility study to determine the best course of action to enhance systems support for the accounts receivable process. Possible alternatives to investigate include:
 - .. Ascertain if ACLAIMS can be modified economically to provide the necessary accounts receivable functionality.
 - .. If modification of ACLAIMS is not economical or strategic, consider purchasing a PC-based accounts receivable package and developing an interface to ACLAIMS to avoid re-entry of data.
- Once a system solution is selected, ensure that the new system is capable of generating accurate and complete accounts receivable reports (e.g., aged receivables reports).
- Ensure adequate training on the final systems solution resulting from the feasibility study (i.e., modifications to ACLAIMS or a new PC-based system).
- Regardless of the system solution, management of the accounts receivable function should be centralized at the L&C program level (instead of relying on field offices to manage). This should increase coordination and timely updating of citation accounts receivable information and, thus, aid in maximizing revenue collections.

ISSUE #11

CITATION PLAN OF CORRECTION

Condition

When a citation is issued to a facility for a violation(s), many of the field offices have a surveyor or other personnel deliver the citation in person and wait "on-site" until facility personnel write a plan of correction (POC). By the time a citation is delivered, there is no longer a life-threatening situation existing as it was acted upon immediately when the condition was initially discovered.

Cause

After delivery of a citation to a facility, it is L&C's policy that a representative wait on-site until a POC is written by the facility. This is not specifically required by statute. Title 22 allows for two options. Title 22 states that the representative (L&C) shall serve the licensee personally. If the licensee is not served personally, a copy of the citation shall be sent by registered or certified mail to the licensee. It is not stated in Title 22 that the representative must wait on-site until a POC is received.

Effect

Current policy requiring on-site completion of a POC results in the surveyor or a representative expending time which could be spent elsewhere. For example, in fiscal year 1993 there were approximately 1,770 citations issued to facilities. At a minimum, field offices in compliance with this policy are incurring at least one hour waiting for a POC. Assuming that 75% of the field offices wait on-site for POCs, a total of approximately 1,327 in unproductive hours are expended annually.

Conclusion

This practice is not a good use of a surveyor's time and does not appear to enhance compliance with statute or regulations.

Recommendation

The Department should pursue the following:

- Change the policy and practice to allow for the delivery of citations by registered mail.
- Change policy to allow a "Plan of Correction" to be prepared no later than 10 calendar days, from the date of issuance of the citation or the POC may be faxed within 48 hours from date of issuance. Field offices should be allowed to establish shorter timeframes in light of the severity of citations, providing they follow a set criteria which has been approved by headquarters.

**ISSUE #12
COMPLAINT
INVESTIGATIONS****Condition**

There are a significant number of ongoing complaints processed by the field offices. Complaints are not always investigated within the mandated timeframes by all field offices or, if they are, other mandatory requirements are often sacrificed, such as federally mandated surveys as mentioned in Issue 5. For example, according to the Staffing and Systems Analysis (attachment to the state-required Fee Report), for the period July 1, 1991 - June 30, 1992, there were a total of 6,836 complaint investigations for all facility types. According to L&C policy, complaints are investigated as to priority by the level of immediate and serious threat. A Priority 1, for example, is the most serious complaint and must be investigated within one day; Priority 2, 10 days; and Priority 3 (the least serious of complaints), 90 days. Complaint investigations of all facility types at all priority levels were late approximately 50% of the time (3,409 of the 6,836 complaint investigations were late). That is a significant number of late complaint investigations.

Cause

The organizational structure at most of the field offices is not conducive to promptly addressing all complaints. Generally, the same staff for both initial or routine surveys are also responsible for complaint investigations. Complaints by their very nature are unscheduled and disrupting to those field offices with that type of structure. Consequently, surveyors or survey teams are pulled from an existing survey in order to investigate a complaint.

Effect

L&C is not in compliance with statute regarding timely investigation of complaints.

Conclusion

A change to the field office organizational structure is necessary to maximize surveyor time and to better achieve statutory compliance for complaints.

Recommendation

The Department should pursue the following:

- Create "Complaint Teams" at the field offices, where appropriate, to focus exclusively on complaints.
- Rotate staff on "Complaint Teams" periodically to prevent burn-out. The rotation should enrich the work environment for surveyor staff as it would provide a break in the routine of performing surveys.



DEPARTMENT OF HEALTH SERVICES

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December 23, 1993


Mr. Kurt R. Sjoberg
State Auditor
Bureau of State Audits
660 J Street, Suite 300
Sacramento, CA 95814

Dear Mr. Sjoberg:

The Department of Health Services submits the attached responses to the December 16, 1993 draft audit report completed by the Bureau of State Audits through its contractor, Deloitte & Touche. While we are not in agreement on several of the issues discussed, or the audit's conclusions, we found many of the recommendations to be beneficial.

If you need further information, please feel free to contact Ms. Margaret DeBow, Deputy Director, Licensing and Certification, at (916) 445-3054.

Sincerely,


S. Kimberly Belshe'
Director

cc: Sandra R. Smoley, R.N.
Secretary
Health and Welfare Agency
1600 Ninth Street, Room 460
Sacramento, CA 95814

* The Audit Team's response to the issues raised by the Department of Health Services are on pages V-1 to V-11 of the report.

Response to Executive Summary and Introduction

The Licensing and Certification program staff has appreciated working with contract audit staff and the outside perspective brought to this effort. Ours is a very complex program area with authority over 30 different types of health facility licensure and certification categories, and over 150,000 Certified Nurse Assistants, Hemodialysis Technicians, and Home Health Aides. Although, it is certainly not an easy program to understand, we were hopeful that the time spent with contract audit staff would result in a report that would accurately point out program deficiencies while acknowledging the many accomplishments achieved over the past few years. We welcomed the opportunity to explain the Licensing and Certification program to contract audit staff in recognition of the importance to continually assess our performance, management, and policies. The mission of protecting the health and safety of Californians receiving care in health facilities is a public trust that staff take very seriously.

We are concerned that this report does not present a balanced perspective in discussing the very complex issues contained within it. A significant amount of very important information that was provided to the contract audit staff was not included or was presented in a cursory manner.

Although our concerns are more detailed in the body of this response, we offer the following by way of example:

- * The Executive Summary draws attention to the fact that in fiscal year 1993, budget amounts were \$9.7 million greater than actual expenditures. To describe this amount as an "off-set" is confusing. Those licensing fees collected in excess of expenditures went into the General Fund to support other General Fund programs.
- * The Executive Summary portrays the fee calculation process as containing multiple errors and alleges that the program is out of compliance with Health and Safety Code Section 1266 requirements for calculating fees. We disagree with this conclusion. We maintain that there was a single true "error" which was caused by an unnoticed addition error made by the Federal health Care Financing Administration when it communicated the program's award amount to the department. It did not materially affect the fee. (See attached chart.)

Response to Executive Summary and Introduction

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We are concerned that this report does not present a balanced perspective in discussing the very complex issues contained within it. A significant amount of very important information that was provided to the contract audit staff was not included or was presented in a cursory manner.

Although our concerns are more detailed in the body of this response, we offer the following by way of example:

- * The Executive Summary draws attention to the fact that in fiscal year 1993, budget amounts were \$9.7 million greater than actual expenditures. To describe this amount as an "off-set" is confusing. Those licensing fees collected in excess of expenditures went into the General Fund to support other General Fund programs.
- * The Executive Summary portrays the fee calculation process as containing multiple errors and alleges that the program is out of compliance with Health and Safety Code Section 1266 requirements for calculating fees. We disagree with this conclusion. We maintain that there was a single true "error" which was caused by an unnoticed addition error made by the Federal Health Care Financing Administration when it communicated the program's award amount to the department. It did not materially affect the fee. (See attached chart.)

Response to Executive Summary and Introduction
Page 2

- * The Executive Summary also presents the fee calculation process as having "significant weaknesses". Licensing and Certification used the most current data available to the program when calculating the fees.
- * While we concur that our budget is not fully supportive of our operation, it is not for the reason stated in the Executive Summary - weaknesses in our budget development process; but, due to a lack of expenditure authority to access General Funds in the amount equal to the revenue generated by licensing fees and which equates to the cost of complying with state and federal mandates.
- * The reporting mandate of Health and Safety Code Section 1266 requires the Bureau of State Audits to determine if costs included in the fee schedule reflect the appropriate resources needed to meet state and federal requirements and if such resources are efficiently utilized. The report, as written, does not answer those questions. While the report presents much discussion on the issue of compliance with federal mandates, there is inadequate acknowledgment of state licensing mandates other than those displayed on the matrix in the Appendix.
- * The Summary also makes statements about "antiquated computer systems", both state and federal. While we agree that the systems are not integrated, there is no acknowledgment that we already have initiated both short-term changes and long range planning to upgrade the capability of our information systems.

In conclusion, the Executive Summary portrays a program which significantly overcharges the regulated community, mismanages its finances and still is unable to accomplish its mandated work. This is unfortunate, because we concur with many of the recommendations and have received many excellent suggestions for improving our operations. We had hoped that a balanced presentation of the myriad of complex programs issues with which we are currently grappling would be of assistance in making necessary changes. We believe that the current presentation of information does just the opposite.

| Financial Category | Original Fee Schedule | Revised Fee Schedule |
|---|-----------------------|----------------------|
| Budgeted general fund expenditures | \$18,365,000 | \$18,268,092 |
| Federal funds budgeted | \$42,267,499 | \$42,267,499 |
| Federal funds estimated receipts | \$33,174,986 | \$33,612,428 |
| Net revenue required | \$25,018,126 | \$24,483,776 |
| Number of beds: | | |
| • General Acute Care | 118,336 | 117,881 |
| • Long-Term Care | 120,472 | 120,912 |
| Total cost allocated to facility types: | | |
| • General Acute Care | \$5,710,015 | \$5,588,022 |
| • Long-Term Care | \$19,308,111 | \$18,895,754 |

| Fee Per Bed | | |
|-------------------------------|-----------------------|--------------------------|
| Facility Type | L&C Original Schedule | L&C Revised Fee Schedule |
| General Acute Care facilities | \$48.25 | \$47.40 |
| Long Term Care facilities | \$160.27 | \$156.28 |

Issue #1 - Fee Schedule Compliance

Condition

- * License fees are set by the Legislature each year. Licensing and Certification prepares a fee schedule based upon a methodology specified in Health and Safety Code Section 1266. License fees are deposited into the General Fund and Licensing and Certification's expenditures are limited to its General Fund appropriation and federal funds received. Licensing and Certification is not directly funded by user fees. Any amount by which fees exceed or fall short of Licensing and Certification expenditures impacts the General Fund, not Licensing and Certification spending authority.
- * Although Licensing and Certification acknowledges the need for improved organization of its documentation and control procedures, Licensing and Certification maintains that it has complied with Section 1266, except for minor deviations. We believe that some of the conclusions concerning control weaknesses and identification of documentation by the audit team resulted from their original misunderstanding of the methodology prescribed by Health and Safety Code Section 1266. The degree to which the potential for error was perceived is not as significant as was suggested by their original alternative fee schedule. It should be noted that the minor discrepancies described in the report related to the correct budgeted General Fund and Federal Fund amounts were identified by Licensing and Certification as a result of its own audit of the fee-setting documentation, not by the audit team. This may confirm weakness in organization of work-papers, but not the total absence of an audit trail or significant errors or inappropriate logic.
- * As Licensing and Certification reported to the audit team the General Fund amount specified in the Governor's proposed budget in January, 1993 for the 1992-93 FY was \$18,268,092. In the "Licensing and Certification Original Schedule", Licensing and Certification used \$18,365,000, which was the most current figure available to the Department when the fees were calculated. Licensing and Certification pointed out to the audit team, that it failed to adjust this figure following publication of the Governor's Budget, but the difference is insignificant. (Section 1266 was amended, effective January 1, 1993, extending the date for making the fee report publicly available to March 17, 1993. It should be noted however, that the proposed fee schedule must be completed and submitted for inclusion in the Governor's proposed budget before January 10, 1993).

Issue #1 - Fee Schedule Compliance
Page 2

- * The total budgeted federal funds used in the "Original Fee Schedule" was \$42,267,499. This is the correct total amount budget upon adoption of the Budget Act of 1992. This was also the most current total available to Licensing and Certification when the fees were calculated. Section 1266 does not specify use of the Governor's proposed budget for identifying the total federal funds budgeted. There is some room for interpretation as to whether to use the figure originally adopted in the Budget Act or the figure as later modified. (The modified figure appearing in the Governor's proposed budget, January 1993 was \$41,637,571). It is our position that use of either figure could be justified. Again, it should be noted that the figures used by Licensing and Certification were the most current totals available at the point at which the fees were calculated.
- * We concur that the figure for "Federal funds estimated receipts" was \$583,257 lower than the figure used in the "Original Fee Schedule" due to an error in the letter from HCFA detailing Licensing and Certification funding for FY 1992-93.
- * Licensing and Certification acknowledges that there were point-in-time differences in identifying the number of beds per facility category. The data requested for the facility universe was produced after a single requisition, but the data manipulations were not able to be completed for a single point-in-time "snapshot". The difference in the final product is insignificant, however, Licensing and Certification will explore the feasibility of obtaining a single report extracted from one point-in-time data.
- * Licensing and Certification has revised the original fee schedule with the following adjustments:
 - 1) Decreased the General Fund total to \$18,268,092,
 - 2) Decreased the Federal funds estimated receipts to by \$583,257,
 - 3) Modified bed count as suggested by audit team.

Cause

We agree that responsibilities related to preparation of the fee schedule need to be more closely delineated and overseen by management.

Issue #1 - Fee Schedule Compliance
Page 3

Effect

See Licensing and Certification Revised Fee Schedule (attached).

Conclusion

We agree that the Alternative Fee Schedule is not materially different from Licensing and Certification's schedule.

Recommendation

The Department agrees Licensing & Certification needs to improve its procedures and documentation reflecting the application of the statutory fee methodology so that there is an audit trail both for future audits and future calculation of fees by Licensing and Certification staff. It also agrees that cross-training of staff should occur and that the most current information regarding budgeted federal and state funds should be used. The accuracy of documents from HCFA describing federal receipts will be verified. We concur that the difference between the original schedule and the Alternative Fee Schedule is not significant and that no adjustment is necessary.

| Financial Category | Original Fee Schedule | Revised Fee Schedule |
|---|-----------------------|----------------------|
| Budgeted general fund expenditures | \$18,365,000 | \$18,268,092 |
| Federal funds budgeted | \$42,267,499 | \$42,267,499 |
| Federal funds estimated receipts | \$33,174,986 | \$33,612,428 |
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| Number of beds: | | |
| • General Acute Care | 118,336 | 117,881 |
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| Total cost allocated to facility types: | | |
| • General Acute Care | \$5,710,015 | \$5,588,022 |
| • Long-Term Care | \$19,308,111 | \$18,895,754 |

| Fee Per Bed | | |
|-------------------------------|-----------------------|--------------------------|
| Facility Type | L&C Original Schedule | L&C Revised Fee Schedule |
| General Acute Care facilities | \$48.25 | \$47.40 |
| Long Term Care facilities | \$160.27 | \$156.28 |

Issue #2 - Fee Schedule Methodology

Condition

Section 1266 of the Health and Safety Code requires that fees for 1993-94 FY be calculated using 1992-93 FY General Fund expenditures identified in the Governor's proposed budget, published January, 1993. This figure represents a fairly accurate description of current year spending. However, Section 1266 includes an adjustment related to federal funds received, compared to federal funds budgeted, that has resulted in a distortion of the total to be collected in fees. Because the receipt of federal funds has not reached the level anticipated and no increases in General Funds have offset the difference, fee revenue has exceeded Licensing and Certification's General Fund expenditures.

Cause

So long as General Funds are not appropriated to offset "shortfalls" in federal funds, the statutory adjustment related to federal funds is unworkable. Additionally, difficulties budgeting for federal funds have resulted from a variety of recent changes including implementation of the Omnibus Budget Reconciliation Act requirements in March 1991, and the attendant uncertainties associated with that process including:

- * unknowns as to the hours required associated with the new survey process which Licensing and Certification over-estimated
- * continual changes in federal guidance as the new survey process evolved
- * training required before state surveyors would become totally "productive" for conducting OBRA surveys
- * lack of information regarding availability of federal funding for this purpose as California had historically received more federal funding than it could absorb; and, paucity of federal funding had not been at issue in prior years.

Effect

We concur that if the fee methodology were based upon actual expenditures, a different result would occur. However, the program believes it followed the statutory methodology as written.

Conclusion

We concur that the statutory mechanism needs revision to assure that fees should correctly tie to costs incurred by provider

Issue #2 - Fee Schedule Methodology
Page 2

category to the extent that access to care is not deleteriously affected for provider categories that are essential to maintain basic, primary care health services.

Recommendations

We agree that the current methodology, its workability and possible alternatives, should be explored and appropriate revisions proposed.

Issue #2 - Fee Schedule Methodology
Page 2

category to the extent that access to care is not deleteriously affected for provider categories that are essential to maintain basic, primary care health services.

Recommendations

We agree that the current methodology, its workability and possible alternatives, should be explored and appropriate revisions proposed.

Issue #3 - Fee Subsidy

Condition

No comment.

Cause

No comment.

Effect

- * We agree in general although we must point out that there has been an increase in federal funding as arrayed on the attached chart.
- * We question revenue displayed in the amount for clinics of \$2000, as the annual fee for one specialty clinic is \$2000.

Conclusion

No comment.

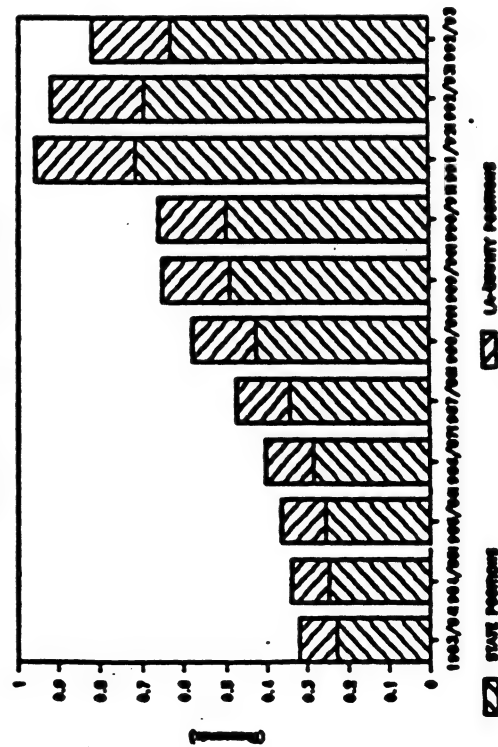
Recommendation

See comment under Issue #2 recommendation.

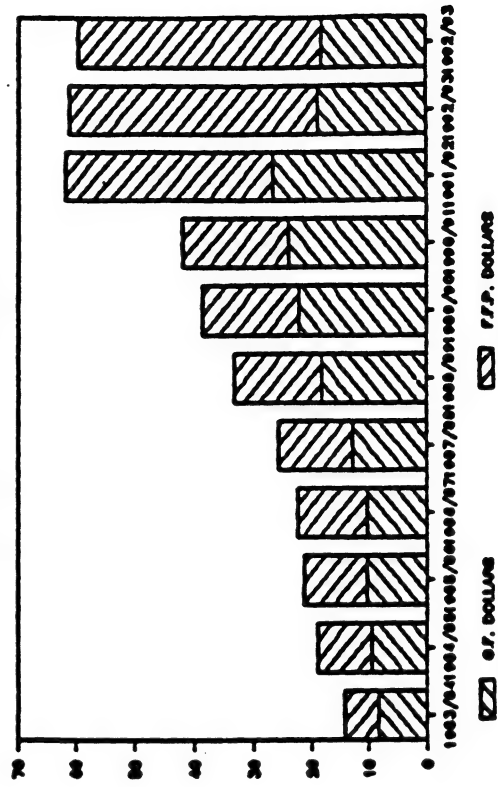
LICENSING AND CERTIFICATION PROGRAM HISTORY OF FUNDING AND POSITIONS

| FISCAL YEAR | STATE POSITION | | L.A. CO. CONTRACT | | BUDGET AUTHORITY | | TOTAL |
|----------------|----------------|-----------|-------------------|-----------|------------------|--------------|--------------|
| | AUTHORIZED | SURVEYORS | AUTHORIZED | SURVEYORS | G.F. | F.P.P. | |
| 1983/84 | 228.3 | 99.0 | 91 | 52 | \$8,280,000 | \$5,731,000 | \$14,011,000 |
| 1984/85 | 246.3 | 120.5 | 94 | 55 | \$9,456,000 | \$9,455,000 | \$18,911,000 |
| 1985/86 | 254.4 | 126.5 | 109 | 61 | \$10,374,000 | \$10,842,000 | \$21,216,000 |
| 1986/87 | 282.9 | 139.5 | 119 | 68 | \$10,438,000 | \$11,874,000 | \$22,312,000 |
| 1987/88 | 340.9 | 172.3 | 133 | 77 | \$12,699,000 | \$12,978,000 | \$25,677,000 |
| 1988/89 | 426.4 | 204.0 | 151 | 85 | \$18,063,000 | \$15,213,000 | \$33,276,000 |
| 1989/90 | 490.6 | 240.5 | 162 | 94 | \$22,268,178 | \$16,405,070 | \$38,673,248 |
| 1990/91 | 498.2 | 241.5 | 162 | 94 | \$23,857,692 | \$18,088,419 | \$41,946,111 |
| 1991/92 | 715.5 | 332.0 | 242 | 147 | \$26,630,826 | \$35,148,826 | \$61,779,652 |
| 1992/93 | 695.0 | 308.0 | 225 | 130 | \$18,700,686 | \$42,267,499 | \$60,968,185 |
| 1992/93 | 631.5 | 290.0 | 185.5 | 128 | \$18,212,172 | \$41,307,247 | \$59,519,419 |

HISTORY OF POSITIONS



HISTORY OF DOLLARS



C:\Funding\ITISSUM

Issue #4 - Budget Function**Condition**

We concur that the Department's accounting system, Cal-Stars, has not provided reports in a timely fashion to allow the most up-to-date information for budget monitoring. Because of this situation, Licensing and Certification has maintained a parallel system of "manual" budget monitoring as a "back-up" system. As a result, the program initiated a self-imposed hiring freeze in late 1991 to mitigate against budget overruns. When vacancies occur, the Licensing and Certification management staff review, as a management team, which positions we can and cannot refill. Each district office has been given a hiring level which they are allowed to maintain and refill vacant positions when the "floor" minimum staffing levels have been reached.

With regard to budget development concerning federal funds, see responses under Issue #2, Condition and Cause. Because of the above described manual monitoring system, the difficulty anticipating the level of federal funds that will be received would not be a significant problem, if the statutory fee-setting methodology did not include an adjustment, originally intended to increase fee levels when federal shortfalls occurred.

Cause

We agree with the need to have more training on Cal-Stars and have, in fact, arranged with the Budget office to receive more timely reports through a specialized report-production function.

Effect

We agree there is a risk involved with untimely reporting and that Licensing and Certification needs to make every effort to submit intelligent, realistic budget requests. Our growing experience with OBRA has resulted in recently improved fiscal forecasting. This was acknowledged by HCFA related to the 1994-95 FY request.

Conclusion

We believe we have moved forward significantly to monitor our own expenditures, including increased use of Cal-Stars. We also maintain we have much more accurate data now upon which to base future revenue and expenditure amounts.

Recommendations

We concur in general but disagree with the implication that Licensing and Certification management is not sufficiently involved in the budgeting process.

Issue #5 - HCFA Mandates

Condition

- * We concur with the statement that Licensing and Certification did not complete all of the federal mandates for federal fiscal year 1993.

Cause

- * We concur with the statement that there has been an increase "in survey completions taking more time." However, we believe that there are several factors which resulted in Licensing and Certification not completing 100% of federally-mandated activities.
- * First, national standards for completing work and determining the amount of federal funds to be apportioned to the states do not consider the wide variance in enforcement activities among states. California cites facilities proportionately more than do the vast majority of other states, resulting in more "level A" follow up surveys. In addition, California is among the few states which has the ability to issue civil monetary penalties (citations and penalties) citing federal requirements.
- * Second, HCFA builds its budget around certain assumptions, including the universe of work to be performed. The budget may not anticipate high growth rates in certain types of facilities or acknowledge data reflecting actual workload. For example, during the 1993 federal fiscal year, 223 new home health agencies sought licensure and certification. The budget issued by HCFA estimated 100 initial home health agency surveys, less than 50% of the actual number. In addition, HCFA estimated and agreed to pay for 3400 complaints in long term care facilities. Almost exactly twice that number were actually received.
- * Third, changes in program priorities during the course of the federal fiscal year also compounded the issue. In July of 1993, HCFA notified Licensing and Certification that, rather than the 25 end-stage renal dialysis (ESRD) clinic surveys required in the call letter, California would be required to conduct 119 surveys. HCFA specifically stated that this activity would supplant home health agency activity.

Issue #5 - HCFA Mandates
Page 2

- * Fourth, as discussed under Issue #12 (Complaint Investigations), during the period of federal fiscal years 1991 and 1992, evaluator staff made a concerted effort to complete a tremendous backlog of certification surveys. Upon liquidation of the backlog, during federal fiscal years 1992 and 1993, the staff concentrated on maintaining the certification survey workload, complying with federally-mandated activities, and eliminating the complaint backlog. We believe that the program is currently on a more stable course in terms of completing workload than it has been in the prior three years.
- * Finally, we believe that Licensing and Certification's ability to complete its workload goes beyond federally-mandated activities. The department is also concerned about the very important state mandated activities for which it is not adequately funded.

Effect

- * We appreciate acknowledgement of the significant improvement in completing federally mandated activities. We concur with the remainder of the statement.

Conclusion

- * The report refers to "state policy" as the barrier to completing all Priority 1 mandates of the federal government. This implies discretion which the program does not have. As noted in the last point under "Cause", Licensing and Certification has needed to balance certification activities conducted on behalf of HCFA with state licensing activities. State statute and, indeed, California's consumers of health care place high priority on the investigation of complaints as an indication of health and safety problems which need immediate attention.
- * We concur that Licensing and Certification must work with HCFA to evaluate and implement changes necessary to complete federally mandated work. However, because the program is responsible for state mandated work, as well, a large measure of the remedy rests within the state administrative and legislative arenas.

Issue #5 - HCFA Mandates

Page 3

- * We are disappointed at the lack of balanced discussion of whether the program costs reflect the appropriate resource needed to meet state and federal requirements as mandated by Health and Safety Code Section 1266. The development of Appendix A does begin to document the tremendous variety of state and federal mandates, but does not begin to place that information in the perspective of workload vs. resources available to complete that workload.

Recommendation

- * We concur with the recommendations and would note that communications with HCFA, both at the regional and national levels, are open and straightforward. We have appreciated HCFA's guidance and support. We recognize that HCFA has budget constraints that forces prioritization of work to be performed. The department is confident that, with the resolution of accurately aligning Licensing and Certification's budget with the cost of conducting work, that the program will be able to complete both federal and state enforcement activities.

Issue #6 - Facility Preparedness

Condition

- * This issue applies only to initial surveys, not annual surveys.

Cause

- * We concur.

Effect

- * We concur.

Conclusion

- * We concur.

Recommendation

- * We concur that the development of self-diagnostic tools for prospective licensees may reduce some number of repeated pre-licensing visits.
- * We question whether the imposition of direct financial penalties for certain facilities that are not prepared for the first visit would be an effective deterrent. For example, we have found that ICF/DD-H facilities are often not ready to be surveyed on the first visit. Some of these facilities are operated by parents of developmentally disabled children who may not have a significant amount of experience in providing health care compared to other providers. We believe that imposition of fines or other penalties may preclude such individuals from becoming providers and we prefer the approach recommended above.

Issue #7 - Antiquated Systems

Condition

- * The department concurs that the current information systems lack functionality and are not integrated. The On-line Survey Certification and Reporting System (OSCARS) is proprietary to the federal government. The Automated Survey Processing Environment (ASPEN) was developed by the State of Colorado and its use mandated by the Health Care Financing Administration (HCFA). Although the states are required to use both systems by HCFA, these systems are not integrated.
- * In addition, L&C has maintained the Automated Certification and Licensing Administrative Information Management System (ACLAIMS) in order to process and track state licensing and federal certification activities. ACLAIMS was developed by L&C prior to the development of OSCARS. The HCFA did provide limited funding support for the development of ACLAIMS. The HCFA staff often request information from ACLAIMS that is not available from OSCARS.
- * Although the systems cannot fully integrate data, the department's Data Systems Branch has successfully developed an interface between ASPEN and ACLAIMS to transfer data via disk rather than requiring key data entry staff to enter the same data twice. The Data Systems Branch and the L&C Information Systems staff have offered to assist the HCFA and the State of Colorado to modify the software for both ASPEN and OSCARS so that the two federally-mandated systems can be integrated.
- * In reference to the "recent upgrade" of the ACLAIMS database, the conversion involved upgrading the ACLAIMS central site in Sacramento headquarters to MDBS IV. Field office use of ACLAIMS was unaffected by the upgrade to the central site; only headquarters' ability to use the report writer function (which does not perform ad hoc queries well) was affected. We concur that training and use of ACLAIMS in generating useful management reports is imperative.

Issue #7 - Antiquated Systems
Page 2

Cause

- * The department concurs that strategic systems planning and implementation is essential. In February of 1993, L&C met with the Data Systems Branch to request that a comprehensive information needs assessment be conducted. During the course of the discussions, several "short term" and "low-cost, high-return" solutions were identified. Data Systems has concentrated on implementing these solutions in order to provide immediate workload relief to field personnel. In addition, Data Systems Branch and L & C staff have been working on the interface between ASPEN and ACLAIMS and resolving technical problems with the newly-released ASPEN software. The L & C staff has also conducted extensive in-service training to field staff on the use of ASPEN.
- * Licensing and Certification has ordered the necessary software and hardware to install a Local Area Network (LAN) in headquarters, and a Wide Area Network (WAN) to connect headquarters with the field offices. This will enable headquarters and the field offices to transmit information in a more efficient manner and offer uniform access to data.
- * In addition, L&C has extensively developed the use of laptop computers in the field to enable evaluator staff to generate survey reports in the field. We are exploring the development of using the laptop modems to transmit the reports to the field office supervisor, have corrections or changes made, transmitted back to the evaluators, and issue the report on site at the facility. We expect the request for a comprehensive information needs assessment to be re-activated within the next several months.

Conclusion

- * We concur.

Recommendation

- * We concur with the recommendations.

Issue #8 - Policy and Procedures Documentation

Condition

- * We concur.

Cause

- * We concur.

Effect

- * We concur.

Conclusion

- * We concur.

Recommendation

- * As stated in this report, the initial costs associated with implementation of parts of this recommendation could be substantial. We concur that easy access to vital reference and resource material would save time and therefore, result in a more efficient use of staff. In a recent survey of program needs, this issue was rated number 4 out of 15 possible areas of operational concern.

Issue #9 - CNA Application Processing

Condition

Concur.

Effect

Concur.

Conclusion

Concur.

Cause

Concur.

Recommendation

- * We concur that staffing levels should be re-evaluated. Prior to the audit review, all certification functions were flow-charted and a zero-based workload analysis was developed to determine the level of staffing required for timely processing. As the workload continues to increase, and processing modifications are made, the staffing requirements are refined.

The section has stayed within its budgeted position expenditure authority and has worked the equivalent of .78 personnel year in overtime over the last six months. The overtime has not been sufficient to reduce the turnaround time below 8 weeks.

A cost benefit analysis/proposal is being developed to determine the most economical method of staffing to reduce the average certification processing time.

- * We are not convinced that our interactive voice response unit (IVRU) system should be modified at this time. The system provides the caller with the status of the certificate (active or inactive) by accessing the computer with the applicant's social security number. As the section's backlog reduced from 12 weeks to 8 weeks, for all certificate categories, the number of calls logged by the IVRU also had a corresponding reduction from approximately 32,000 to approximately 23,000 per month.

Issue #9 - CNA Application Processing

Page 2

- * We concur that the option of a computer generated letter be explored. The section will work with the Data Processing Branch to determine the capability of the existing data processing system to generate "interim" letters to the applicants upon receipt of the application. The section has recently modified the remittance renewal application sent to the applicant 120 days prior to expiration explaining the average processing time and encouraging the applicant to submit their renewal immediately to avoid expiration. Receipt of "interim" letters may reduce the number of calls from applicants expecting immediate turnaround time but will not reduce the calls from applicants who have waited until the last minute to renew.
- * We concur to assign staff to work specifically on backlogs in all certification categories thereby preventing backlog increases. This was implemented November 1, 1993. Most recently, overtime focus has been placed on the Home Health Aide applications reducing the average turnaround time consistent with Certified Nurse Assistants (8 weeks).
- * We concur to work with the Data Processing Section to explore automatic screen sequencing options to improve the productivity of data input. The section is currently reviewing the possibility of bar-scanning applications to improve the overall efficiency and accuracy of data input.
- * We do not concur with the recommendation to use pre-printed forms. The computer generated renewal remittance applications mailed to the Certified applicants 120 days prior to expiration include the information already in the data base. The applicant is requested to change any incorrect data. However, approximately 60% to 70% of the Certified Nurse Assistants fail to advise the Department of address changes during the two-year certification period resulting in a significant amount of undeliverable mail. The section has requested the post-office to provide address correction notices by stamping the outgoing envelopes. The results of this request have not been significant and are reliant on the addressee's move notification to the post office. The Certified Nurse Assistant's who cannot be notified through the computer generated notice renew through their employers who maintain applications and monitor the certification status of their employees.

The applications which are returned are not due to data base corrections but failure to provide proof of work in the last 24 months or failure to answer the conviction screening question.

ISSUE #10 - Citation Collection Process

Condition

- * We concur that it is not possible to obtain accurate and timely accounting information from ACLAIMS. The report presents the issue of citation collection processing as an accounts receivable problem caused by ACLAIMS. ACLAIMS was not developed as a penalty collection or citation tracking system.

Conclusion

- * We concur.

Cause

- * We concur.

Effect

- * We concur.

Recommendation

- * We concur that the establishment of a reliable centralized collection unit and a citation tracking system is imperative. The L&C program has taken the steps identified in the following recommendations toward meeting those goals.
 1. The Program undertook a feasibility study and created a centralized collections pilot project.
 2. The Centralized Collections Unit has demonstrated progress using a PC-based system of tracking citation collections and managing the collections process for three district offices.
 3. The program has reviewed and purchased software to improve the system.
- * We also concur that adequate training on the selected systems is critical. Full implementation of the system will include the development of procedures and training plan.

Issue #11 - Citation Plan of Correction

Condition

- * Established policy requires that when a deficiency is "acted on immediately" that fact is to be indicated on the field visit report. The system problem which initially led to the noncompliance must be reviewed and addressed by the facility. This requires a POC to address the "system" problem.

Cause

- * We concur.

Effect

- * We concur.

Conclusion

- * We concur.

Recommendation

- * We concur with the recommendation.

Issue #12 - Complaint Investigations

Condition

- * We concur that during the time period indicated in the report that complaint investigations were not always completed within the state mandated time frame. During this period of time, the program was working to resolve a substantial survey backlog which resulted from the decision to delay implementation of the Omnibus Budget Reconciliation Act (OBRA) of 1987.
- * Upon elimination of the survey backlog, program priorities re-established the policy that an on-site inspection in response to all complaints about long term care facilities be initiated within 10 days of receipt. The complaints which indicate a serious health and safety risk result in an on-site visit no later than three days after receipt, with many being investigated within 24 hours of receipt. The current policy and general program practice is in full compliance with state mandated time frames for complaint investigation.
- * It should be noted that the definition of Priority 1, 2 and 3 complaints is not a distinction made in state statute or regulation, but previous program policy, to indicate the severity of the complaint and offer guidance for scheduling investigations.

Cause

- * The organizational structure of the field offices did not create the complaint backlog. The effect of implementing a new, complex and more labor-intensive survey process and addressing the survey backlog created a temporary problem in responding to all complaints within the required time frame.

Effect

- * We concur that, during the time frame indicated in the report, not all complaints were investigated within required time frames. As mentioned above, this was a temporary problem. Currently, L&C policy related to complaint investigations and general practice is in compliance with statutory requirements.

Issue #12 - Complaint Investigations
Page 2

Conclusion

- * We disagree that an across-the-board change in the field office organization is necessary to maximize surveyor time and achieve better compliance for complaint investigations, but readily concede that the L&C organizational structure needs to be flexible to respond to changing mandates, priorities, and community needs.

Recommendation

- * We concur, in part, with the recommendation. Currently, there are two district offices which have established complaint teams. Certain other district offices have minimal staffing levels which might make specialization difficult. The program has, and will continue to consider the establishment of specialized complaint teams and other organizational changes in order to conduct enforcement activities in a more cost-effective and efficient way.

Appendix A - State Mandated Activities

1. The mandate to investigate complaints within 10 days is applicable only to long-term care facilities (SNF, ICF, ICF/DD, ICF/DD-H, ICF/DD-N, and CLHF) and home health agencies.
2. Provisional licenses may not be issued to GACHs, except distinct parts. The "Distinct Parts Only" section should have an "X" only under GACH - not under SNF.
3. Under "Supplemental services", there should not be an "X" for CLHFs under "Issue special permit".
4. The authority to assess civil penalties is also applicable to CLHFs, ICF/DD-Hs, and ICF/DD-Ns.
5. Approval of program flexibility is also applicable to CDRH, Primary Care Clinics, CLHF, and Psychology clinics.
6. Regulations have not been adopted for CLHF, Hospice, Specialty Clinics, or Hemodialysis Technicians.
7. Review of admissions contracts is applicable to CLHFs.

Appendix B - Workflow Diagrams

Initial Licensing

- * We concur.

Complaints Investigation

- * We concur.

Certification/Recertification Survey

- * We concur.

CNA Certification Process

- * We concur.

Citation and Appeal

- * We concur.

Development of New Policies/Regulations

- * The chart implies that all new regulations or policies originate from new law. This is not the case, and such changes probably only represent 30 percent of new policies or regulations. The balance are identified by the program, brought to the program's attention by industry and/or advocates or result from new federal directives.
- * The chart also implies that new policy flows from top management down. This is inaccurate as most of the changes are identified by surveyors or supervisors or administrators in the field, by Headquarters staff, or as indicated above, by outside advocates or industry.
- * Tracking of these changes does not occur through an administrative assistant. These changes are tracked by the Policy Section's internal tracking system, which is automated, and continually updated.
- * The chart does not acknowledge the detailed process required to promulgate a new regulation, and implies that a new regulation can be adopted after it has gone through an internal review and approval. The chart makes no reference to the Administrative Procedures Act, which establishes specific steps for the adoption of regulations, including review by the Office of Administrative Law.

Appendix B - Workflow Diagrams
Page 2

- * The chart implies that adoption of new regulations falls into a "minor change" category, and usually this is not the case.
- * The chart speaks to the implementation of "interim regulations" which do not exist, except if regulations are adopted on an emergency basis and are, therefore, effective before public hearing.

Field Office Questions/Policy Interpretation Request Processing

- * These issues are not tracked by an administrative assistant but usually tracked on the Policy Section's internal tracking system, or by periodic monitoring by the Section Chief via the PROFs note and logging system.
- * It is not clear why and under what circumstances "finance" would give input to a policy. Unless the policy is reflected in a proposed regulation, Department of Finance typically does not get involved in policy review. However, the fiscal implications of various alternate policies (in terms of the impact of alternatives on field workload) is very often a critical factor.
- * The chart does not mention the involvement of the following groups in formulation of the initial and final policy drafts: legal, field offices, advocates, industry, other departments as necessary, HCFA, and other federal agencies.
- * The chart does not differentiate between responses to field questions where the policy issue has already been addressed and written in the Policy and Procedures (P&P) Manual, versus when the issue(s) raised require(s) the development of a new policy. Sometimes, the need to change regulations is also identified.

V. AUDIT TEAM'S RESPONSE TO L&C'S REPORT REVIEW

INTRODUCTION

The Department has reviewed the content of the audit report and has responded to the Audit Team by letter. This letter is included in Section IV of the report.

In our opinion, most of L&C's review comments focus on providing additional background information and their own perspective on certain aspects of each finding. In general, we do not disagree with these types of comments. Therefore, in this section of the report we only rebut L&C's review comments for which we have disagreement.

It is important to recognize that L&C agrees with almost all of the recommendations contained in the report. In fact, L&C does not disagree with one entire recommendation. There are a few recommendations that they disagree with in part but not entirely. Therefore, although L&C may disagree with some aspects of the Audit Team's perspective on certain issues contained in the report, they do acknowledge that the problem exists within their program as they do not refute our recommendations. For example, L&C provides significant review comments concerning the details of Issue 1. However, at the end of their criticism they do not disagree with any aspect of our detailed recommendation.

To facilitate communication, for each L&C review comment that we take exception with we will provide a brief excerpt of L&C's statement followed by a full rebuttal by the Audit Team. This will provide the reader with a cross reference to L&C's letter in Appendix C.

EXECUTIVE SUMMARY

L&C'S REVIEW COMMENT

"The licensing and Certification program staff has appreciated working with the contract audit staff and the outside perspective brought that staff take very seriously.

We are concerned that this report does not present a balanced perspective in discussing the very complex issues contained within it in a cursory manner."

AUDIT TEAM'S RESPONSE

The Audit Team never intended to imply that L&C is not a complex program. We make this point throughout the report. In fact, in the Introduction section of the report, we state that L&C is a very complex program and continue to explain the environment in which it must operate.

L&C is correct that the report does not highlight all of the strengths and recent accomplishments of L&C. It tends to focus on deficiencies. The purpose and scope of this audit is governed by Section 1266 of the California Health and Safety Code. Section 1266 does not require the report to include such an analysis. Finally, we tried wherever possible to mention positive aspects of L&C as they were discovered during the audit.

L&C'S REVIEW COMMENT

"The Executive Summary draws attention to the fact that in fiscal year 1993, budget amounts were \$9.7 million greater than actual expenditures. To describe this amount as an 'off-set' is confusing

AUDIT TEAM'S RESPONSE

We do not believe that the wording is confusing. The key point here is that the intent of Section 1266 is to develop fees for general acute care and long-term care health facilities that are calculated on a cost reimbursement basis. If the budgeted amounts used to estimate expenditures are \$9.7 million greater than the actual expenditures, the state has overcharged the health facilities in that fiscal year by \$9.7 million. While the state may have not given L&C budgeting authority over these funds and chose to use the additional revenue for other purposes, it was paid by the health facilities to support the state licensing function.

This problem is further compounded by L&C not currently meeting all of its state and federal mandatory requirements due, in part, to a lack of financial resources. Therefore, Legislative action to remedy the current overage of \$9.7 million (and future changes in fee methodology) needs to recognize this condition and adjust fees accordingly. Workloads are discussed in more detail in Issue 5 and 12 of the report.

**L&C'S REVIEW
COMMENT**

"The Executive Summary portrays the fee calculation process as containing multiple errors and alleges that the program is out of compliance with Health and Safety Code Section 1266 requirements for calculating fees. We disagree with this conclusion. We maintain that there was a single true 'error' It did not materially affect the fee."

**AUDIT TEAM'S
RESPONSE**

We agree with L&C that the individual errors discovered during the audit did not result in a material difference in the end product of a fee schedule calculation. We disagree, however, with L&C's statement that there was only a single true "error". Our detailed justification is provided in the body of Issue 1.

Finally, it should be highlighted again that the Audit Team was more critical of the control environment surrounding the preparation of the fee schedule than the actual errors themselves. As stated in the conclusion of Issue 1, the apparent lack of controls at L&C may lead to more significant errors in the future if corrective action is not taken. The main theme discussed in Issue 1 was the lack of procedures and adequate L&C work papers at the time of the audit, not the materiality of individual errors.

**L&C'S REVIEW
COMMENT**

"The Executive Summary also presents the fee calculation process as having 'significant weaknesses'. Licensing and Certification used the most current data available to the program when calculating the fees."

**AUDIT TEAM'S
RESPONSE**

As discussed in more detail in Issue 1, L&C did not use timely budget information in our opinion. L&C obtained the general fund budget amount for fiscal 1993 during October 1992 when it first began its preparation of the fee schedule. They had ample time in our opinion to obtain a budget version more recent than October 1992 prior to its deadline of January 17, 1993.

**L&C'S REVIEW
COMMENT**

"While we concur that our budget is not fully supportive of our operation, it is not for the reason stated in the Executive Summary - weaknesses in our budget development process; but, due to a lack of expenditure authority to access General Funds in the amount equal to the revenue generated by licensing fees and which equates to the cost of complying with state and federal mandates."



**AUDIT TEAM'S
RESPONSE**

As discussed earlier in the Audit Team's response, L&C budgetary authority is a state internal problem. This is why we recommend in Issue 2 of the report to change Section 1266 to prevent such barriers (e.g., each annual fee schedule should be adjusted to reflect discrepancies between estimated figures and actual figures, establish a special fund to permit L&C to have expenditure authority, etc.)

**L&C'S REVIEW
COMMENT**

"The reporting mandate of Health and Safety Code Section 1266 requires the Bureau of State Audits to determine if costs included in the fee schedule reflect the appropriate resources needed to meet state and federal requirements and if such resources are efficiently utilized. The report, as written, does not answer those questions"

**AUDIT TEAM'S
RESPONSE**

The report does comply with all audit objectives detailed in Section 1266. Specifically, the audit objective concerning assessment of whether costs included in the fee schedule reflect the appropriate resources needed to meet state and federal requirements is met. It is acknowledged in more than one part of the report that L&C is not fully compliant with all state and federal mandates. In Issue 2 of the report, it indicates that L&C's workload (for state and federal mandates) should be recognized in all decisions impacting fee adjustments and future statutes. A comprehensive workload analysis is not required by Section 1266 for this audit. The report does not specifically provide an estimate of the resources (in terms of additional full-time personnel or fiscal resources) required to meet all state and federal mandates.

**L&C'S REVIEW
COMMENT**

"In conclusion, the Executive Summary portrays a program which significantly overcharges the regulated community, mismanages its finances and still is unable to accomplish its mandated work. This is unfortunate, because we concur with many of the recommendations and have received many excellent suggestions for improving our operations. We had hoped that a balanced presentation of the myriad of complex programs issues with which we are currently grappling would be of assistance in making necessary changes. We believe that the current presentation of information does just the opposite."

**AUDIT TEAM'S
RESPONSE**

As discussed in the Introduction of this section, L&C agrees with almost all of the recommendations contained in the report. In fact, L&C does not disagree with one entire recommendation. There are a few recommendations that they disagree with in part but not entirely. Therefore, although L&C may disagree with some aspects of the Audit Team's perspective on certain issues contained in the report, they do acknowledge that the problem exists within their program as they do not refute our recommendations.

We did not intend to paint a picture of L&C as a program that is in significant chaos and is mismanaged in all respects. We have identified deficiencies in its programs pursuant to the scope of the Section 1266 audit and believe that the more significant issues discussed in this report can be resolved within a reasonable time-frame. They are not insurmountable.

Finally - as mentioned earlier - the scope of this audit pursuant to Section 1266 and the content of this report, require certain items to be reviewed; not the entire L&C program.

ISSUE 1**L&C'S REVIEW
COMMENT**

"License fees are set by the Legislature each year Any amount by which fees exceed or fall short of Licensing and Certification expenditures impacts the General Fund, not Licensing and Certification spending authority."

**AUDIT TEAM'S
RESPONSE**

As discussed earlier in this section, the key point here is that L&C at the program level does not currently have budgetary authority over excess revenues (e.g., the \$9.7 million in fiscal 1993). This is an internal state problem, however. The intent of Section 1266 is to develop fees for general acute care and long-term care health facilities that are calculated on a cost reimbursement basis. If the budgeted amounts used to estimate expenditures are \$9.7 million greater than the actual expenditures, the state has overcharged the health facilities in that fiscal year by \$9.7 million. While the state may have chosen to use this additional revenue for other purposes, it was paid by the health facilities to support the state licensing function.



**L&C'S REVIEW
COMMENT**

"Although Licensing and Certification acknowledges the need for improved organization of its documentation and control procedures, Licensing and Certification maintains that it has complied with Section 1266, except for minor deviations It should be noted that the minor discrepancies described in the report related to the correct budgeted General Fund and Federal Fund amounts were identified by Licensing and Certification as a result of its own audit of the fee-setting documentation, not by the audit team"

**AUDIT TEAM'S
RESPONSE**

As discussed earlier in this section and detailed in Issue 1 of the report, L&C did have errors in its fee schedule, did not use timely financial data, and procedures and work papers were incomplete at the time of the audit. Also, some of the errors were significant individually but when netted with the other errors were not material. So, we have concluded that although the net effect to the fee schedule is not material, the fee schedule control environment is deficient, and if not corrected, may lead to material errors in the future; therefore, L&C is not fully compliant with Section 1266.

Finally, L&C contends that they had discovered the discrepancies related to the correct budgeted General Fund and Federal Fund amounts as a result of its own audit of the fee schedule, and not the Audit Team. This is a misleading statement. First, Section 1266 is somewhat ambiguous as to what information should be used for certain components of the fee schedule. The Audit Team had raised a number of questions to L&C staff regarding their own interpretation of Section 1266. It was after these questions were raised that L&C conducted its own audit (as they have phrased it). In essence, their review was not an audit but rather a response to questions posed by the Audit Team. Hence, if the audit had not been conducted by the Audit Team, it is likely that L&C would not have discovered the errors.

**L&C'S REVIEW
COMMENT**

"As Licensing and Certification reported to the audit team the General Fund amount specified in the Governor's proposed budget in January, 1993 for the 1992-93 FY was \$18,268,092. In the 'Licensing and Certification Original Schedule', Licensing and Certification used \$18,365,000, which was the most current figure available to the Department when the fees were calculated. Licensing and Certification pointed out to the audit team, that it failed to adjust this figure following publication

of the Governor's Budget, but the difference is insignificant budget before January 10, 1993)."

AUDIT TEAM'S RESPONSE

This review comment concerning timeliness of budget information is discussed earlier in this section. An additional point is warranted here, however. L&C contends that it informed the Audit Team that L&C failed to adjust the General Fund budget amount to the final version of the Governor's proposed budget (as required by Section 1266) as published on January 10, 1993, but the difference was insignificant. L&C is implying in their review comment that it had checked that amount when it was actually published or shortly before that point (and before the audit began) and the difference was insignificant. This is not correct as there was no documentation in L&C's work papers to support this procedure. L&C did not compare the amount they used in their fee schedule (i.e., \$18,365,000) to the correct amount (i.e., \$18,268,092) contained in the Governor's proposed budget until after the Audit Team began its field work.

L&C'S REVIEW COMMENT

"The total budgeted federal funds used in the 'Original Fee Schedule' was \$42,267,499. This is the correct total amount budgeted upon adoption of the Budget Act of 1992. This was also the most current total available to Licensing and Certification when the fees were calculated. Section 1266 does not specify use of the Governor's proposed budget for identifying the total federal funds budgeted. There is some room for interpretation"

AUDIT TEAM'S RESPONSE

We agree that Section 1266 is ambiguous in certain areas and requires professional interpretation. As discussed more fully in Issue 1 of the report, the Audit Team concluded that the Federal Fund budget amount should be obtained from the same point in time (i.e., the same budget version) to maintain comparability of financial data. It would lack sound financial judgment to decide otherwise as budget information can change significantly within a program between funding sources. In many cases, a significant change in one fund can have a major impact on the budget proposed for another fund. Therefore, if one does not obtain program budget information from the same point in time, it is likely the financial information is not comparable, and, therefore not sound.

L&C'S REVIEW COMMENT

At the end of L&C's review comments addressing the Executive Summary and Issue 1 of the report, they include two tables (see below) which were replicated from the report itself. However, they changed the Federal Funds Budgeted (as represented in the body of the report in Figure 1-a) from \$41,637,571 to \$42,267,499. This change by L&C is fully explained by them in their response letter. As a result of L&C changing that number, other financial totals and allocations effected by that number also were changed in the table (i.e., Net Revenue Required, Total Cost Allocated to Facility Types: General Acute Care and Long-Term Care).

The overall changes made by L&C to Figure 1-a of the report also caused a change to Figure 1-b of the report, which essentially is the end result of the fee schedule (i.e., Fee Per Bed).

| Financial Category | Original Fee Schedule | Alternative Fee Schedule |
|--|-----------------------|--------------------------|
| Budgeted general fund expenditures | \$18,365,000 | \$18,268,092 |
| Federal funds budgeted | \$42,267,499 | \$42,267,499 |
| Federal funds estimated receipts | \$33,174,986 | \$33,612,428 |
| Net revenue required | \$25,018,126 | \$24,483,776 |
| Number of beds: | | |
| • General Acute Care | 118,336 | 117,881 |
| • Long-Term Care | 120,472 | 120,912 |
| Total costs allocated to facility types: | | |
| • General Acute Care | \$5,710,015 | \$5,588,022 |
| • Long-Term Care | \$19,308,111 | \$18,895,754 |

| Fee Per Bed | | |
|-------------------------------|-----------------------|--------------------------|
| Facility Type | L&C Original Schedule | Alternative Fee Schedule |
| General Acute Care Facilities | \$48.25 | \$47.40 |
| Long Term Care Facilities | \$160.27 | \$156.28 |

**AUDIT TEAM'S
RESPONSE**

As discussed previously in this section of the report, the Audit Team does not agree with L&C's argument to use \$42,267,499 as the correct Federal Funds Budget amount. We believe the amount should be \$41,637,571. Therefore, the Audit Team does not agree with L&C's changes to Figure 1-a or 1-b of the report, and believe that the fee per bed for General Acute Care and Long-Term Care of \$46.18 and \$152.26, respectively, are correctly stated in the report.

ISSUE 2**L&C'S REVIEW
COMMENT**

"So long as General Funds are not appropriated to offset 'shortfalls' in federal funds, the statutory adjustment related to federal funds is unworkable. Additionally, difficulties budgeting for federal funds have resulted from a variety of recent changes including implementation of the Omnibus Budget Reconciliation Act requirements in march 1991, and the attendant uncertainties associated with that process, including"

**AUDIT TEAM'S
RESPONSE**

We agree that changes are necessary to current statutes in order to solve the problems associated with establishing fees and the Audit Team has provided recommendations in the report to achieve that goal.

ISSUE 3**L&C'S REVIEW
COMMENT**

"We question revenue displayed in the amount for clinics of \$2,000, as the annual fee for one specialty clinic is \$2,000."

**AUDIT TEAM'S
RESPONSE**

The Audit Team estimated the revenue for select fees using the best information available to us at the time of the audit. It was difficult for us to interpret the L&C report that we used to obtain this information, and staff at L&C were unable to provide accurate information. Therefore, we acknowledge that this figure may be somewhat low. However, the substance of the problem is with Intermediate Care Facilities (DD-H/DD-N). The total subsidy there is estimated to be \$874,000. Therefore, excluding the \$2,000 from the analysis has no real impact on the issue as originally stated.

ISSUE 5**L&C'S REVIEW
COMMENT**

"We are disappointed at the lack of balanced discussion of whether the program costs reflect the appropriate resources needed to meet state and federal requirements as mandated by Health and Safety Code Section 1266

**AUDIT TEAM'S
RESPONSE**

The Audit Team believes it has provided sufficient discussion in the report concerning L&C's workload and how it impacts fees. This was addressed more than once in this section of the report. In addition, Issue 5 also recognizes this aspect of the overall problem. It is addressed in the Cause statement and in the third Recommendation.

APPENDIX A**L&C'S REVIEW
COMMENT**

L&C had a total of seven review comments for Appendix A, Program Matrices, of the report. They are not repeated here as the Audit Team's response below addresses all of them.

**AUDIT TEAM'S
RESPONSE**

As discussed in Section II, Scope and Methodology, of the report one of the objectives of the audit was to determine if L&C was in compliance with all significant state and federal mandates. Since L&C did not have a comprehensive document listing all of its mandatory state and federal requirements, the Audit Team invested a significant amount of time researching laws and regulations applicable to L&C's program. We documented our research in the form of a matrix and held a number of meetings with L&C personnel to verify our information. After a few iterations, we believed that the program matrices as represented in Appendix A were sufficiently accurate to meet the objective of the audit.

Specific to the seven review comments provided by L&C, we are not able to confirm or deny their criticisms. L&C did not provide us with legal references to verify their assertions. Furthermore, as with most laws and regulations there is a certain amount of interpretation required. The Audit Team was fairly conservative in our conclusions. It is possible, therefore, that our opinion may differ from L&C's, but without legal references we are not able to make this determination.

In conclusion, we do not believe that additional time incurred here to reconcile the Audit Team's opinion with L&C's opinion would change the substance of any of the issues discussed in the body of the report. Therefore, we are not revising Appendix A.

APPENDIX B

L&C'S REVIEW COMMENT

L&C had a total of 10 review comments for Appendix B, Workflow Diagrams, of the report. These review comments were directed at the last two workflows in Appendix B (i.e., Development of New Policies/Regulations and Field Office Questions/Policy Interpretation Request Processing). They are not repeated here as the Audit Team's response below addresses all of them.

AUDIT TEAM'S RESPONSE

Another objective of the audit was to assess L&C's efficiency and effectiveness as discussed in Section II, Scope and Methodology, of the report. One of the tools used to meet this objective was development of workflow diagrams for the major functions of L&C's operations. These workflow diagrams were used as discussion tools in the re-engineering work sessions. They were never intended to represent every detail of a function. As with the program matrices discussed above, we did incur time with L&C personnel during the re-engineering work sessions to verify the accuracy of the workflow diagrams. After a few iterations, we believed that the workflow diagrams as represented in Appendix B were sufficiently accurate to meet the objective of the audit.

The Audit Team decided to include the workflow diagrams in the report to illustrate the complexity of L&C's program. They do not directly support any of the issues identified in the report.

Specific to the ten review comments provided by L&C, we do not believe that additional time incurred in this area by the Audit Team and L&C personnel would change the substance of any of the issues discussed in the body of the report. Therefore, we are not revising Appendix B.

APPENDIX A - PROGRAM MATRICES

The program matrices include the State and Federal mandates of the Department of Health Services' Licensing and Certification Program. The purpose of creating these matrices was to identify L&C's program responsibilities for health care facilities as stated in regulations, statutes, and other pertinent laws. These were used in our review in determining whether all these statutory requirements were actually being performed.

The requirements specifically were extracted from the California Health and Safety Code, Welfare and Institutions Code, and the Business and Professions Code, Title 22 of the California Code of Regulations, HCFA's Budget Call Letter, Social Security Act (Title 18 and 19), Code of Federal Regulations, and the State Plan (Medi-Cal).

The matrix was created so that one could identify each mandate and what program or facility to which it pertained. For example, on page 1 of State Mandated, line 1, Section 1266 of the Health and Safety Code required that the Department of Health Services submit by March 17 a report regarding the methodology and calculations used to determine those fees. This is an administrative function and does not apply specifically to a program or a facility. The fourth requirement, Inspect health facilities, is required of the Department of all those facilities marked by an "X". A translation of the acronyms of the various programs and facilities is listed below:

| | |
|--------------------|---|
| Admin. | Administrative function |
| CNA | Certified Nurse Assistant (Federal term is Certified Nurse Aide) |
| HHAides | Home Health Aides |
| HemoTech | Hemodialysis Technicians |
| GACH | General Acute Care Hospital |
| APH | Acute Psychiatric Hospital |
| SNF | Skilled Nursing Facility |
| ICF | Intermediate Care Facility |
| ICF/DD | Intermediate Care Facility/ Developmentally Disabled |
| ICF/DD-H | Intermediate Care Facility/ Developmentally Disabled - Habilitative |
| ICF/DD-N | Intermediate Care Facility/ Developmentally Disabled - Nursing |
| HHA | Home Health Agencies |
| PHF | Psychiatric Health Facility |
| ADHC | Adult Day Health Center |
| CDRH | Chemical Dependency Recovery Hospitals |
| Prim. Care Clinics | Primary Care Clinics |
| CLHF | Congregate Living Health Facility |
| Hospice | Hospice |
| Psych. Clinic | Psychology Clinic |
| Specialty Clinic | Specialty Clinic |

Additional Federally Mandated Matrix Acronyms:

| | |
|--------------------|---|
| ICF/MR | Intermediate Care Facility/Mentally Retarded (Federal term for all ICF's) |
| Rural HC | Rural Health Clinic |
| CORF | Comprehensive Outpatient Rehabilitation Facility |
| ASC | Ambulatory Surgical Center |
| Exc. Hosp/Unit-PPS | Exclusion Hospitals/Unit - Prospective Payment System |
| Mamm | Mammography |

[illegible]

LICENSING AND CERTIFICATION PROGRAM

[illegible]

Appendix A

LICENSING AND CERTIFICATION PROGRAM

| | Programs | | | Facilities | | | | | | | | | | | | Performed Currently | | | | | |
|---|----------|-----|----------|------------|-----|--------|----|--------|-----|----------|----------|------|---------|-----|-----|---------------------|--------------------|-------|-------|-----|----|
| | Admin. | CNA | HemoTech | HHAide | SNF | SNF/NF | NF | ICF/MR | HHA | Hospital | Rural/HC | CORF | Hospice | ASC | Lab | Clinic | Exc. Hosp/Unit-PPS | Mamm. | Other | Yes | No |
| Federally Mandated | | | | | | | | | | | | | | | | | | | | | |
| Conduct periodic educational programs for staff and residents of SNF's and NF's | X | | | | X | X | X | | | | | | | | | | | | | Yes | |
| Provide training & technical assistance | X | | | | X | X | X | | | | | | | | | | | | | Yes | |
| Provide fair mechanism for hearing appeals on transfers of residents | X | | | | X | X | X | | | | | | | | | | | | | Yes | |
| Implement and enforce nursing facility administrator standards | X | | | | | | | | | | | | | | | | | | | Yes | |
| Specification of resident assessment instrument | X | | | | | | | | | | | | | | | | | | | Yes | |
| Notice of medicaid rights | X | | | | | | | | | | | | | | | | | | | Yes | |
| Preadmission screening and resident review | X | | | | | | | | | | | | | | | | | | | Yes | |

• Survey minimum coverage level of 10% is required of all other facilities combined.

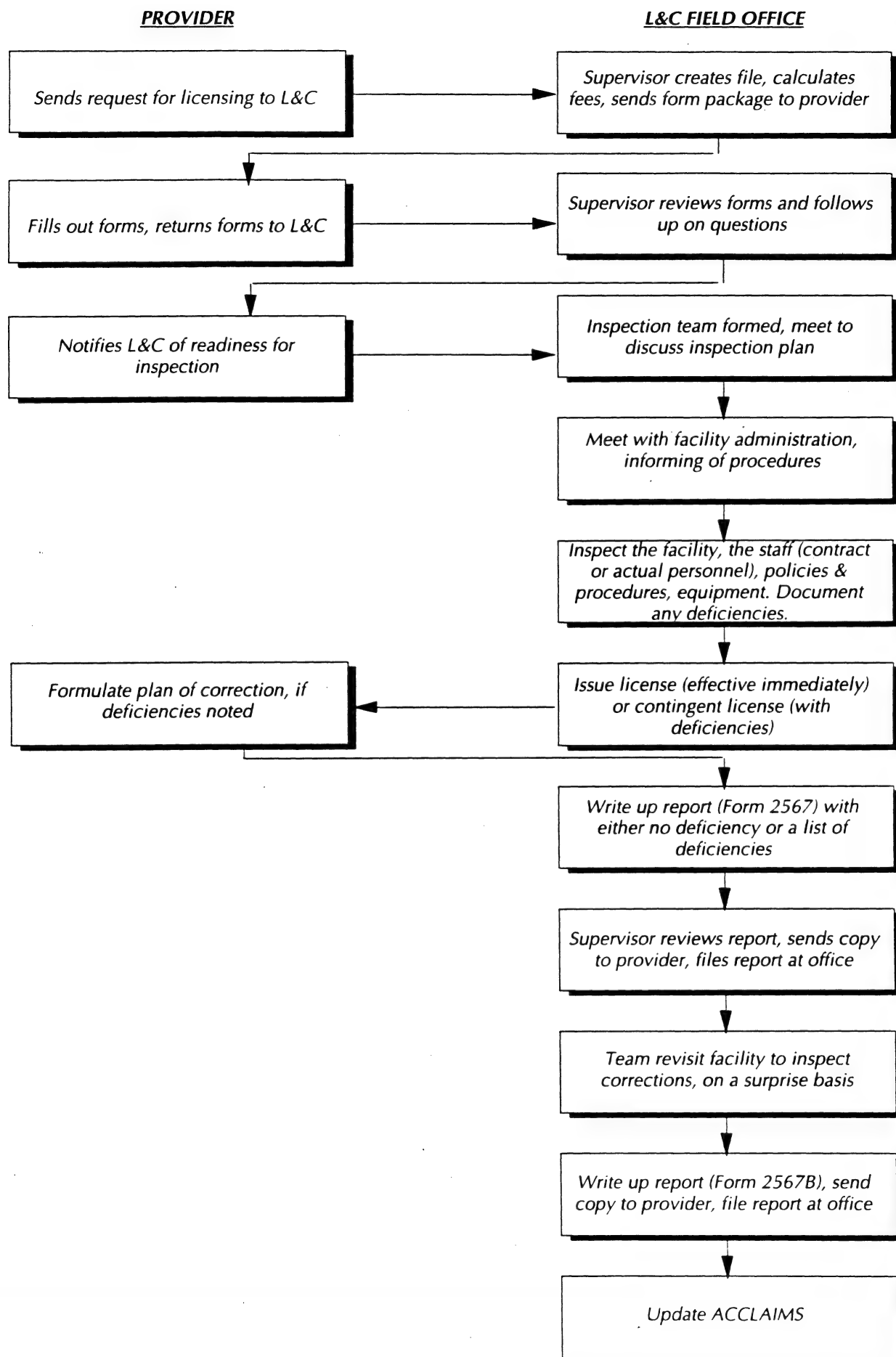
** Labs are surveyed for certification by the Lab Field Services Division of DHS.

***Mammography facilities are surveyed for certification by the Radiological Health Services Branch of DHS.

APPENDIX B - WORKFLOW DIAGRAMS

The following workflow diagrams were created to document current processes of significant functions at Licensing and Certification to aid in assessing operating efficiencies. This helped to identify re-engineering initiatives, and it provided a discussion tool during the focus group work sessions.

INITIAL LICENSING



COMPLAINTS INVESTIGATION

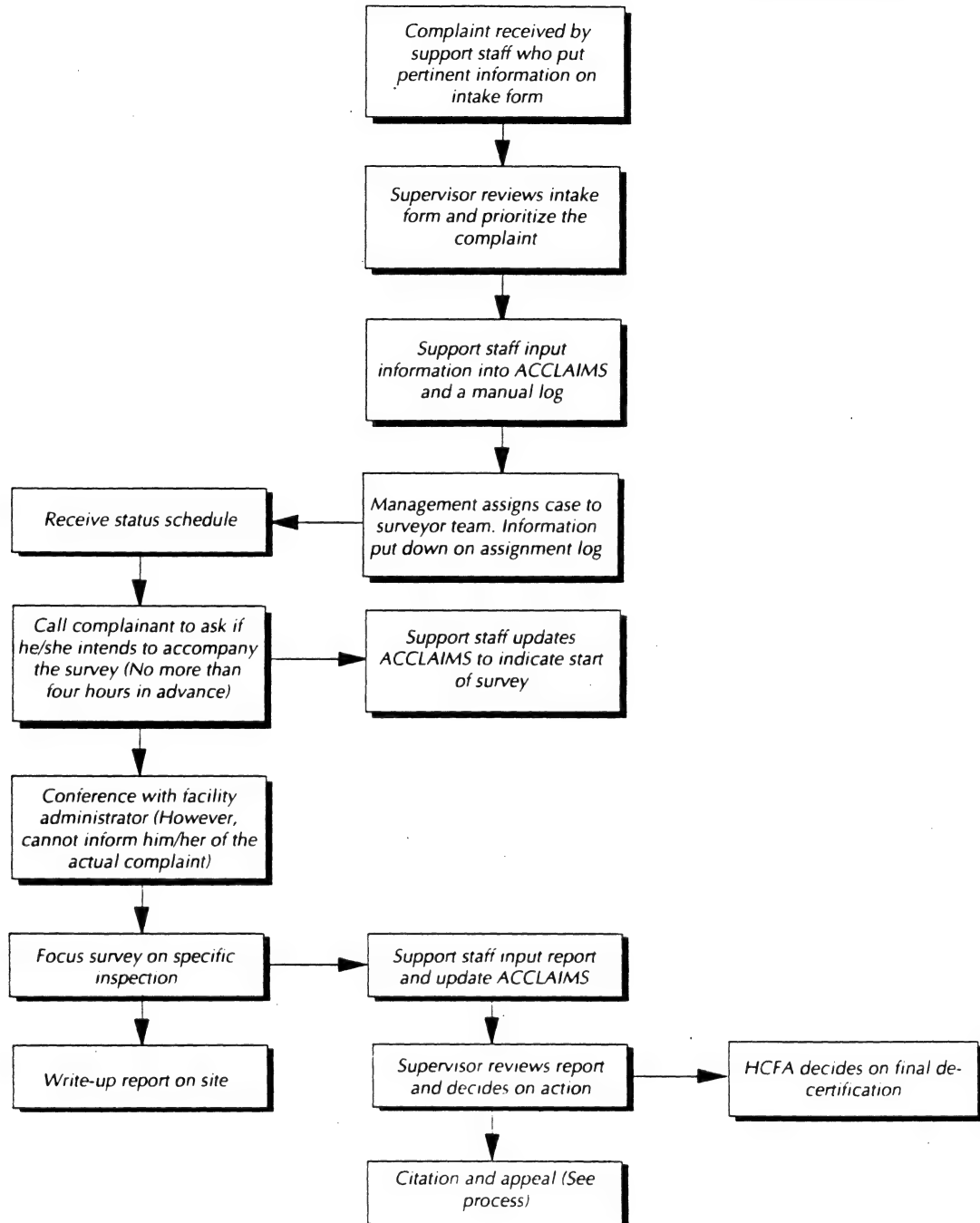
Page B-3

PROVIDER

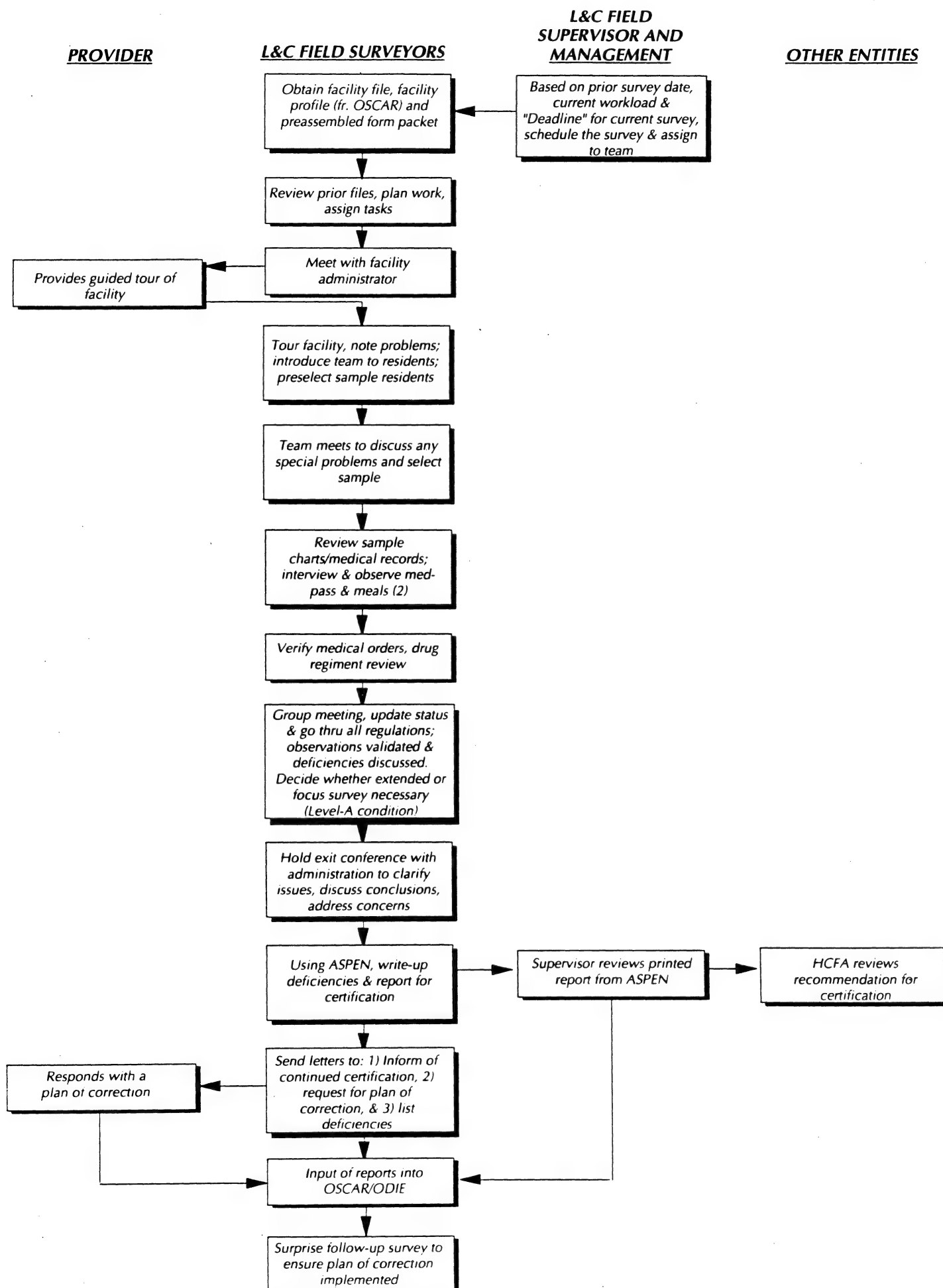
L&C FIELD SURVEYORS

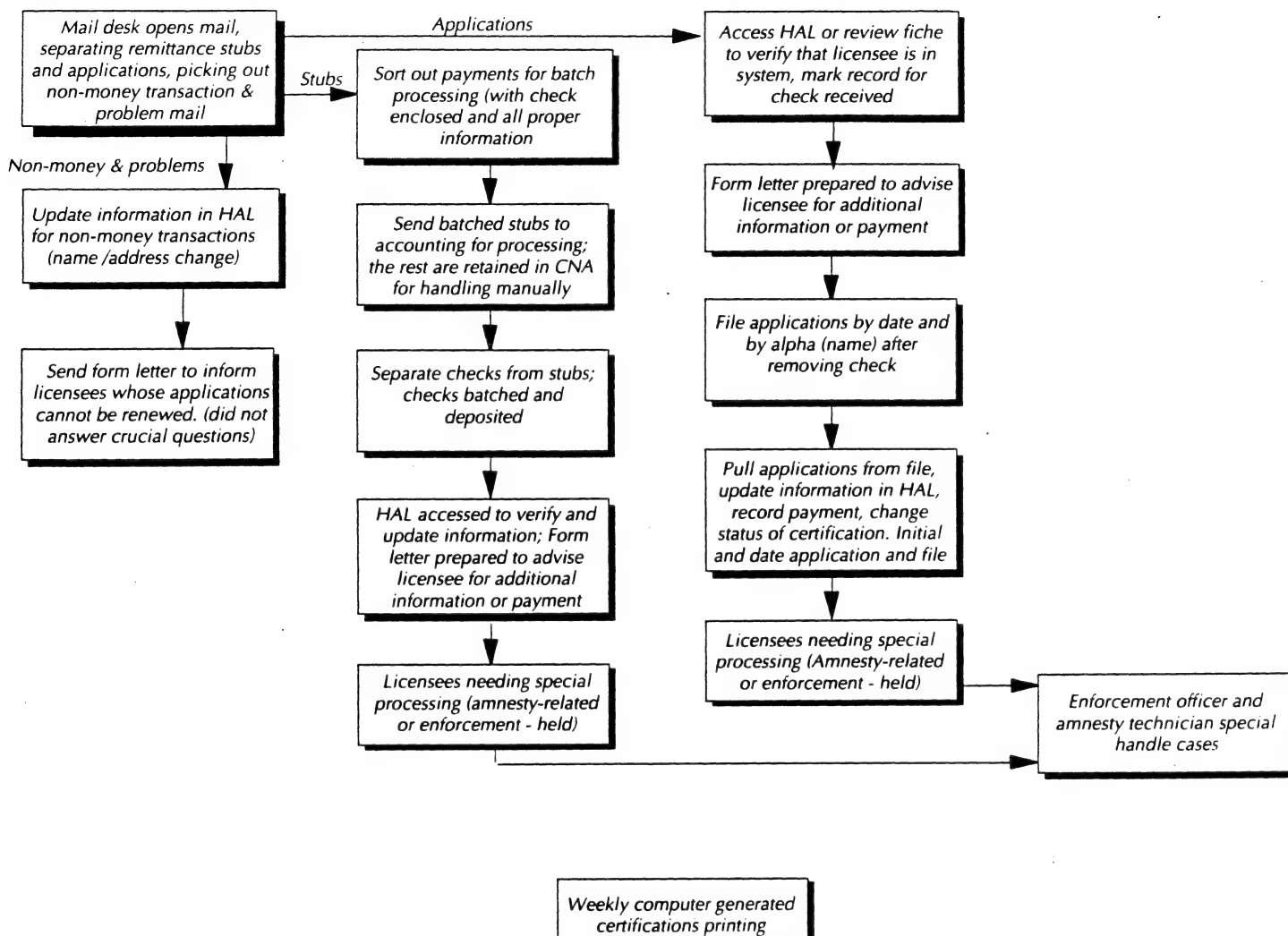
L&C FIELD SUPERVISOR AND MANAGEMENT

OTHER ENTITIES

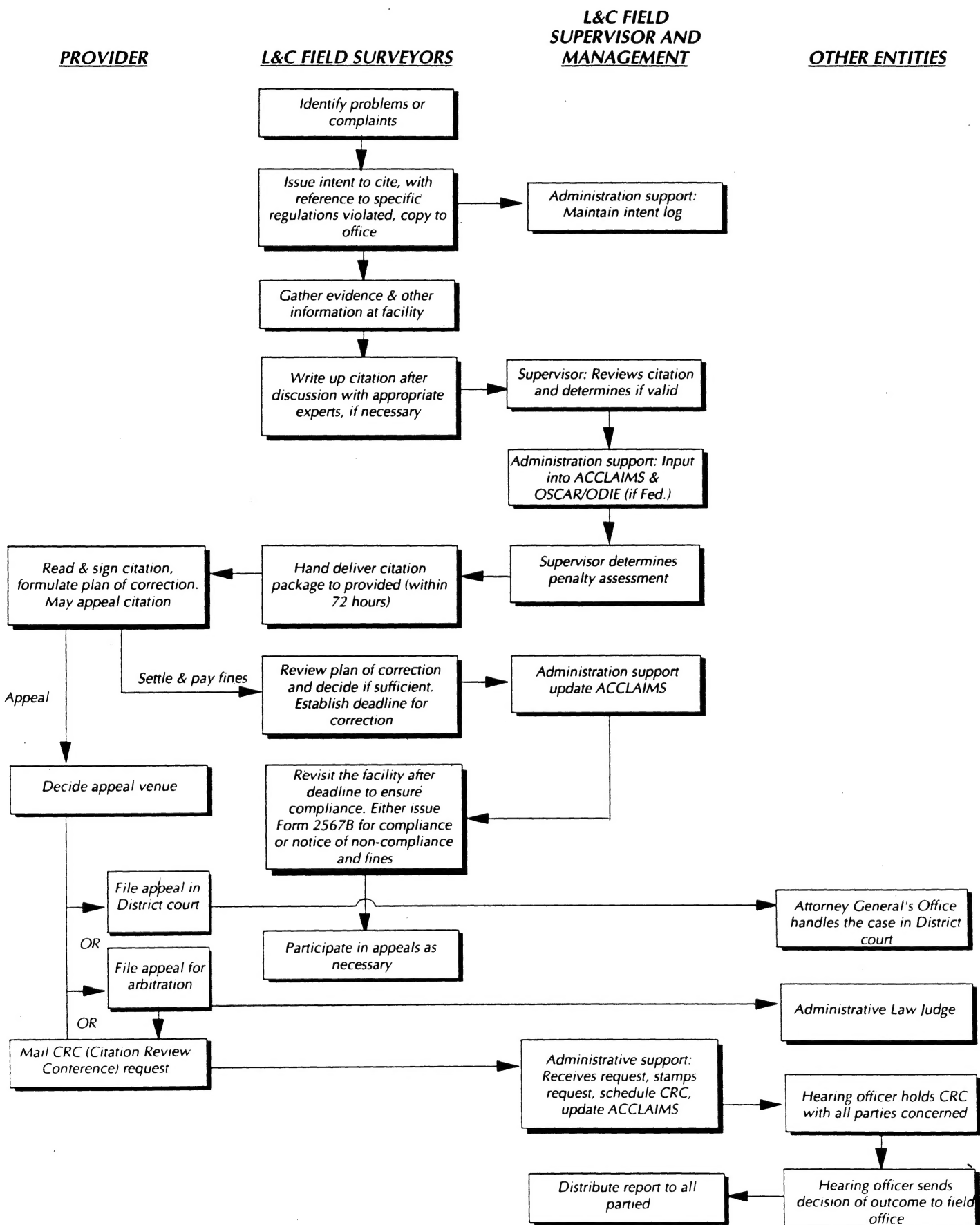


CERTIFICATION/RECERTIFICATION SURVEY



**MAILROOM &
FRONT-END
PROCESS****REMITTANCE STUB
PROCESSING****RENEWAL
APPLICATION
PROCESSING****SPECIAL
PROCESSING**

CITATION & APPEAL

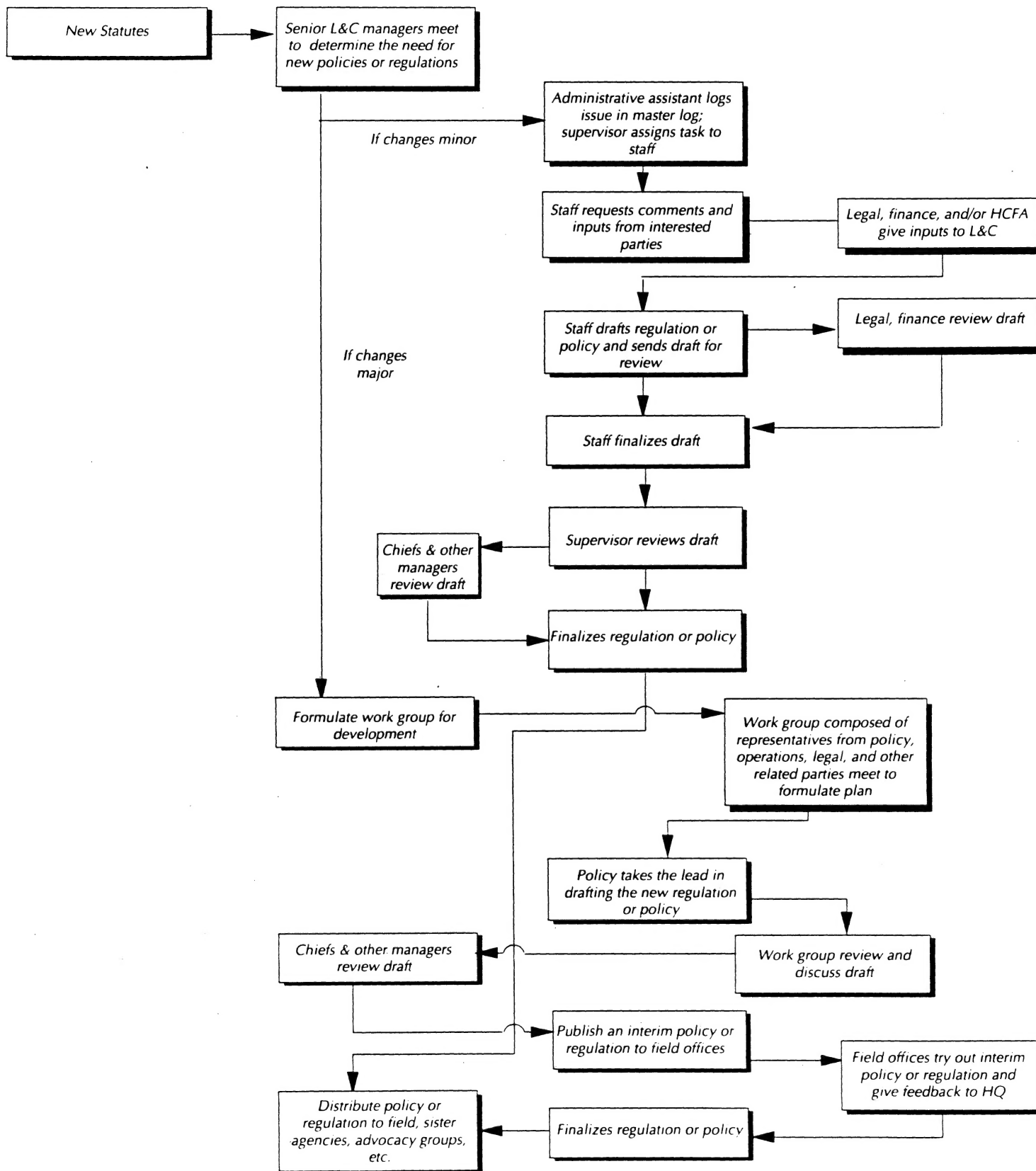


LEGISLATURE

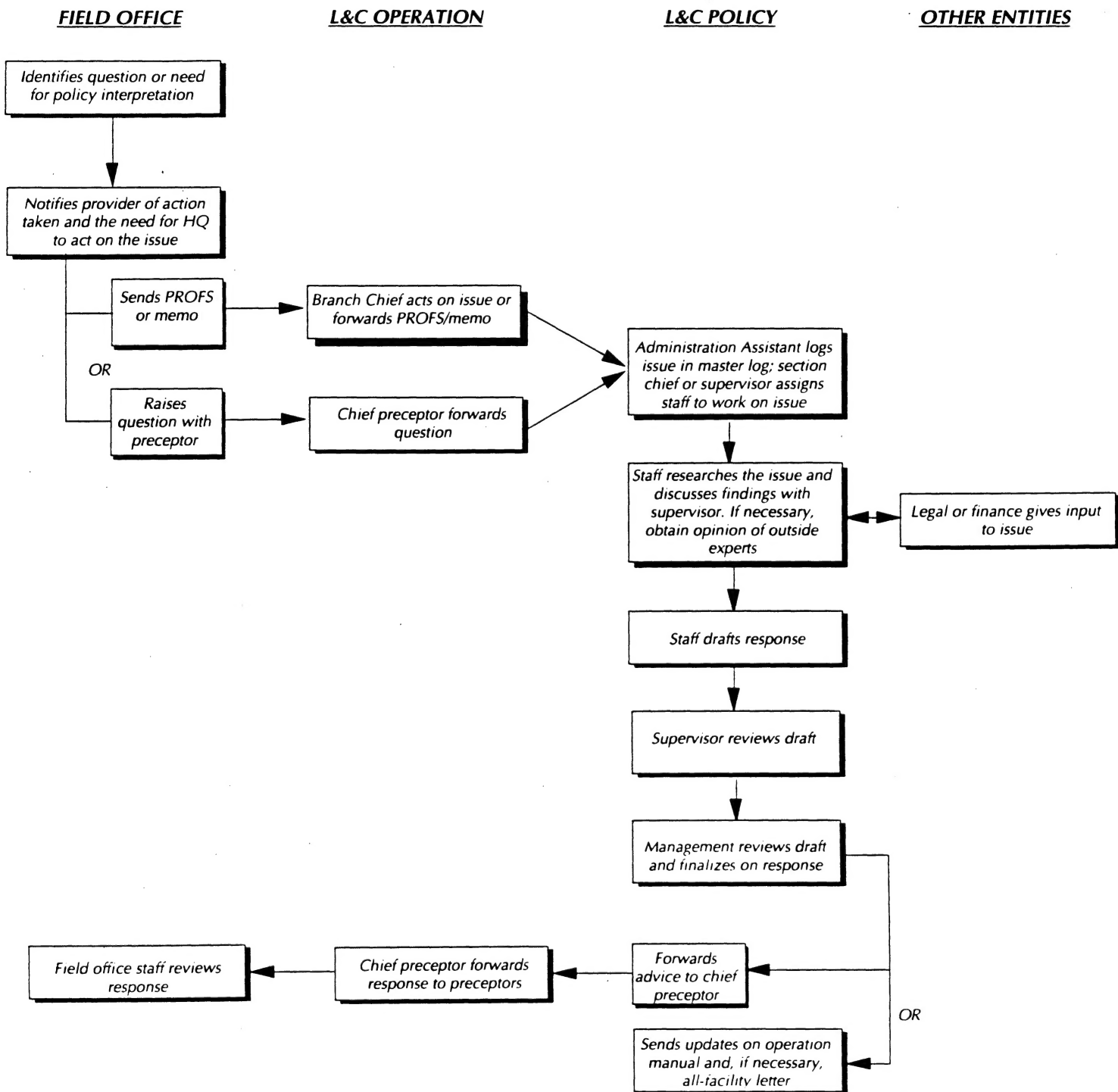
L&C MANAGEMENT

L&C POLICY

OTHER ENTITIES



FIELD OFFICE QUESTIONS/POLICY INTERPRETATION REQUEST PROCESSING



cc: Members of the Legislature
 Office of the Lieutenant Governor
 State Controller
 Legislative Analyst
 Assembly Office of Research
 Senate Office of Research
 Assembly Majority/Minority Consultants
 Senate Majority/Minority Consultants
 Capitol Press Corps